

FOUNDED 1836

# LIBERTY

WASHINGTON  
D. C.

A MAGAZINE OF RELIGIOUS FREEDOM



**WESTWARD THE COURSE OF EMPIRE TAKES ITS WAY**

*Painting by Emanuel Leutze Which Decorates the Southwest Stairway in the United States Capitol*

# DECLARATION OF PRINCIPLES

*Religious Liberty Association*

We believe in God, in the Bible as the word of God, and in the separation of church and state as taught by Jesus Christ; namely, that the church and the state have been placed side by side, each to work in its respective sphere. (Matt. 22:21; John 18:36.)

We believe that the Ten Commandments are the law of God, and that they comprehend man's whole duty to God and man.

We believe that the religion of Jesus Christ is comprehended in the principle of love to God and love to our fellowman, and thus this religion needs no human power to support or enforce it. Love cannot be forced.

We believe in civil government as divinely ordained to protect men in the enjoyment of their natural rights, and to rule in civil things, and that in this realm it is entitled to the respectful and willing obedience of all.

We believe it is the right and should be the privilege of every individual to worship or not to worship, or to change or not to change his religion, according to the dictates of his own conscience, but that in the exercise of this right he should respect the equal rights of others.

We believe that all legislation which unites church and state is subversive of human rights, potentially persecuting in character, and opposed to the best interests of the church and of the state; and therefore, that it is not within the province of human government to enact such legislation.

We believe it to be our duty to use every lawful and honorable means to prevent the enactment of legislation which tends to unite church and state, and to oppose every movement toward such union, that all may enjoy the inestimable blessings of religious liberty.

We believe in the individual's natural and inalienable right of freedom of conscience, and the right to profess, to practice, and to promulgate his religious beliefs; holding that these are the essence of religious liberty.

We believe that these liberties are embraced in the golden rule, which says, "Whatsoever ye would that men should do to you, do ye even so to them."

*Religious Liberty Association, 6840 Eastern Avenue,  
Takoma Park, Washington 12, D.C.*

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"Westward the Course of Empire Takes Its Way" by Leutze

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## Our Cover Picture

Many artists in the past have turned to historical events and to certain eras of transition and movement of peoples for the themes of their paintings. Such a one was the American painter, Emanuel Leutze. He was born in Germany in 1816, and was brought to the United States by his family when he was a small child.

Here in this land of opportunity he studied art, and from the sale of his work he was enabled to go to Europe for further study. There he painted historical compositions, one of them being "Columbus Before the Council of Salamanca."

He was married while living in Germany. While still there he became interested in American history and painted perhaps his best-known canvas, "Washington Crossing the Delaware." The floes of ice in this picture were inspired by his view of the Rhine River in winter. He returned to the United States in 1859 and the following year began his painting which for many years has decorated a stairway in the Capitol at Washington. He chose as his subject, "Westward the Course of Empire Takes Its Way" combining both historical and allegorical figures in a pyramidal composition.

Mr. Leutze was elected to membership in the National Academy of Design in 1860. He died in Washington, D.C., about eight years later. Our cover shows only a part of this large canvas. The full painting is shown on the center pages of this number.



## BACK COVER

The First Martyr to Freedom of the Press in America

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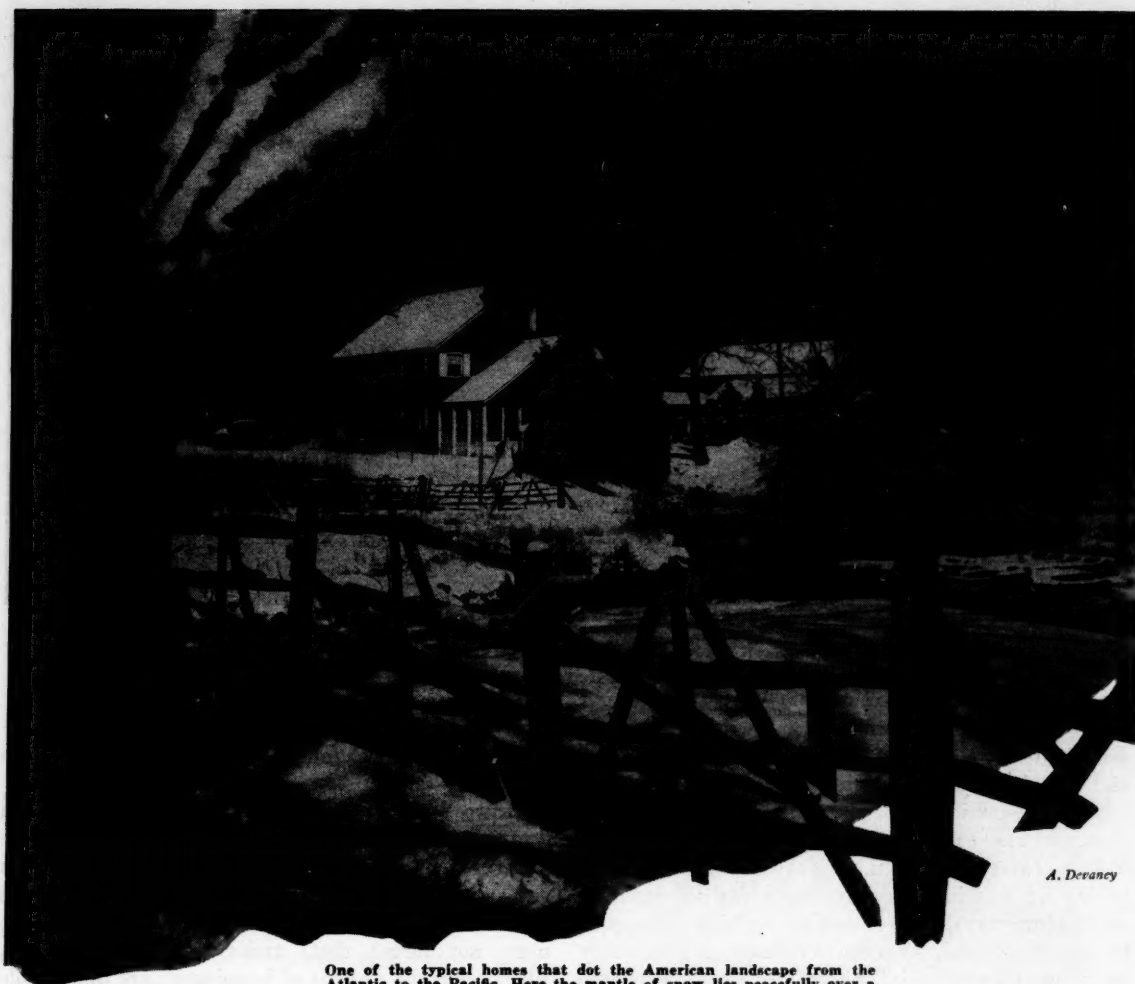


Courtesy, B. & O. R. R.

The days of the covered wagon, the topic of our cover, have long since passed. Today, civilization the world over knows fast travel by land, sea, and air.

AMENDMENT I  
CONGRESS SHALL MAKE NO LAW  
RESPECTING ESTABLISHMENT  
OF RELIGION, OR PROHIBIT-  
ING THE FREE EXERCISE  
THEREOF, OR ABRIDGING THE  
FREEDOM OF SPEECH OR OF  
THE PRESS, OR THE RIGHT  
OF THE PEOPLE PEACEABLY  
TO ASSEMBLE, AND TO PETI-  
TION THE GOVERNMENT FOR  
A REDRESS OF GRIEVANCES

FROM  
THE CONSTITUTION OF THE  
UNITED STATES OF AMERICA



A. Derancy

One of the typical homes that dot the American landscape from the Atlantic to the Pacific. Here the mantle of snow lies peacefully over a Northern farm.

## Fundamentals of Freedom

By **THE HONORABLE O. OTTO MOORE**

*Justice, Supreme Court of the State of Colorado*

**W**E MUST EVER REMEMBER that "freedom is not free." The people of this nation have placed a tremendous offering in lives, suffering, and treasure upon the altar of liberty as the price of freedom during the years that have passed since the independence of the thirteen colonies was declared. At the present time the world stands poised on the pre-

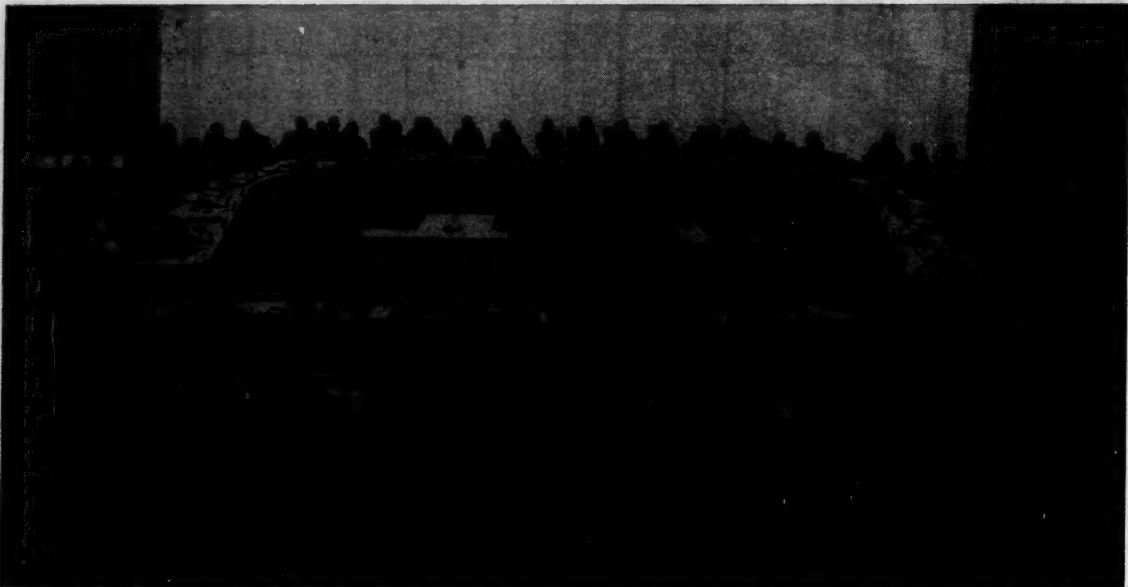
cipitous canyon walls of an abyss, the potential depth and darkness of which dwarfs all the experiences of the past. Unless this abyss can be bridged successfully there is little hope that civilization can survive the holocaust and the ruin that would follow an all-out atomic war. That which lies nearest the heart of the average citizen in every land is a thirst for a means of accomplishing permanent peace, with justice; a program under which justice and power shall be brought together so that, "Whatever is just may be powerful, and whatever is powerful may be just."

In a sincere and conscientious effort to achieve this result the United Nations was formed. This

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← We may have cause to wonder at times whether American citizens realize as they should the benefits and protection the First Amendment affords them. We have reproduced it from a plaque so that all may read and not forget.

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Courtesy, United Nations

The Economic and Social Council of the United Nations is preparing a covenant on human rights. The American delegates must be on the alert to see that this treaty does not oppose or render void our own Bill of Rights.

organization was created under the inspiration of lofty ideals and with altruistic purposes. It was dedicated to the maintenance of international peace and security; the development of friendly relations between countries; the promotion of international economic and social cooperation; and was intended to be a center for harmonizing the actions of participating nations in the attainment of these common ends. However, due to forces over which we appear to have no control, we seem to be moving irresistibly on a tide of world division that is carrying us into whirlpools of uncertain depths, where the hearts and minds of men are locked hard in hatreds and distrusts. The world is sullen, angry, and distrustful as the struggle for the minds of men continues to gather force and momentum. The cold war aggressor and advocate of atheistic materialism, dictatorship, and totalitarianism moves relentlessly to swallow up vast areas of the earth and to drop the iron curtain in front of and behind the inhabitants of those areas.

Whether we like it or not, the truth of the matter is that the United States of America has ascended to the leadership of all forces in the world opposing the ruthless hands of those whose purpose it is to destroy the American concept of freedom. We must rededicate ourselves to the task of preserving the freedoms that we enjoy, and we must be made conscious of the fact that the struggle against dictatorship is indeed a global conflict. We must understand that this conflict is waged not only on the battlefields of Korea but also at the conference tables of the world. We must stand firm in defense of the freedoms represented by our Bill of Rights and by the language contained in the Declaration of Independence. The same ideals

and principles for which Americans have given their lives while bearing the brunt of the communist onslaught should be fought for and upheld at the conference tables.

If we are to cope successfully with totalitarian doctrines in diplomatic halls and at the conference tables of the United Nations, we must stand firm against surrender of fundamental foundation stones upon which our concepts of freedom are based. We must not forget that, under our system, "Life, liberty and the pursuit of happiness" are inalienable rights of the individual citizen, and that "to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed."

Embodied in the Constitution of the United States as the fundamental law, and giving life and vitality to the above declarations, we have our Bill of Rights, the very first article of which contains assurances with which every American should be thoroughly familiar, and of which he should be justly proud. This article reads as follows:

"Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people peaceably to assemble and to petition the government for a redress of grievances."

The freedoms thus provided cannot be limited at the whim or caprice of any dictator. They can be enjoyed freely under any and all circumstances; they are ever present; they are "inalienable." They cannot be taken away by the exercise of any power by any person or persons in authority. Americans are

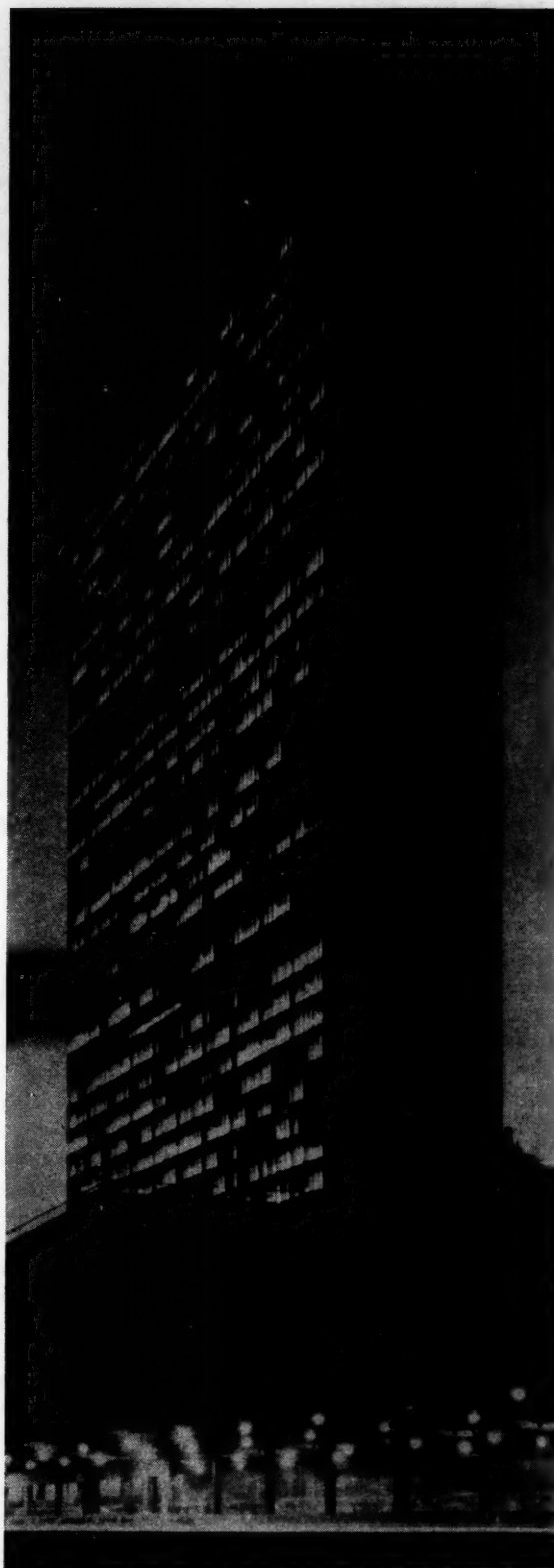
devoted to these fundamental ideas of freedom. We have, in generations past and present, laid an enormous sacrifice in suffering, in treasure, and in human lives, upon the altar of liberty as the price of these freedoms. Americans do not intend that these great principles shall be watered down, or that they shall be modified in such a way as to be made weak, meaningless, and ineffective as bulwarks of strength against invasions upon the freedoms and liberties of our citizens. Absolutely nothing short of the full meaning of our Bill of Rights will satisfy the thirst of the human soul for freedom!

Those who represent the United States of America at the conference tables of the United Nations would do well to declare to the world that, if indeed there must be a declaration or covenant on human rights for all peoples of the earth, then nothing short of acceptance of basic American cornerstones of freedom will be acceptable to the American people. It is inconceivable that any person purporting to represent the people of America would vote acceptance of a bill of worldwide human rights that would amount to a repudiation of our American concepts of freedom. No one who values our rich heritage would accept definitions of human rights that are altogether satisfactory to the dictators whose purpose it is to destroy individual liberties and freedoms. We soon shall learn whether the people of the United States, and the freedoms for which they stand in the world, can withstand the pressure of the doctrine of "freedom" as advocated by the dictator countries, who wage relentless war against genuine freedom, within forums of the United Nations.

The Economic and Social Council, one of the six governing bodies of the United Nations, has been at work in the preparation of a treaty, or covenant, on human rights. This document has been completed and defines the rights and freedoms that all peoples of the world should enjoy. This covenant on human rights will before long pass the hurdle of United Nations approval and will be submitted for adoption by the United States as a treaty, and if it ever is adopted by this nation as a treaty, or in any other manner, we would be binding ourselves to other nations to uphold and enforce foreign totalitarian, communistic concepts of basic liberties diametrically opposed to our own, and the Bill of Rights of our national and State constitutions would lie in ashes at our feet.

Article 13 of this proposed Covenant on Human Rights provides that everyone shall have the right to freedom of thought, conscience, and religion, but it goes on to say that this freedom to manifest one's religion "shall be subject only to such *limitations as are pursuant to law* and are reasonable and necessary to protect public safety, order, health." (Italics supplied.)

Article 14 of this document, which if adopted might take precedence over the Constitution of the



A. Devaney  
The United Nations Building in New York City presents an imposing sight as it reaches up full height into the evening shadows.

United States and knock out our State Bill of Rights, provides that everyone shall have the "right to freedom of expression—to seek, receive and impart information," but it goes on to say that this right carries special duties and responsibilities and "may therefore be subject to certain *penalties, liabilities and restrictions*, but these shall be such only as *are provided by law* and are necessary for the protection of national security, public order, safety." (Italics supplied.)

Under Article 2 of the covenant, free speech, free press, right to assemble and petition, can be suspended in case of "a state of emergency officially proclaimed by the authorities."

A mere reading of the provisions above quoted from the Covenant on Human Rights is sufficient to show conclusively that religious freedom, freedom of speech, freedom of the press, and the right to peaceably assemble, are weakened and watered down to the point where they are without substantial meaning and fall far short of the absolute guarantees of our own system.

Under no circumstances should this nation indicate to the world that such weak assurances express the basic belief of Americans with regard to fundamentals of freedom. The right to religious freedom is a hollow mockery if its existence depends upon the dictator's power to limit the exercise thereof by adoption of a law. It would take the current crop of dictators but a few minutes to adopt a law which, to them, would be necessary "to protect public safety or order," and thus wipe out all semblance of freedom of worship.

These provisions of the Covenant on Human Rights raise issues of vast consequence. Will the liberty-loving people of this country permit any person or group to bind the nation to uphold and enforce such a communistic concept of fundamental freedoms for the people of the world? We think not!

Then see to it that the Covenant on Human Rights in its present form never is accepted as a treaty or in any other manner. Do not permit a compromise or surrender of a principle so valuable to a continuation of the American way of life.

## Let Us Defend Our Liberties

By THE HONORABLE CHARLES G. JOHNSON

*Treasurer of the State of California*

**T**ODAY WE ENJOY the privileges of free thinking, free assembly, free speaking, and free worship in a free country operating under a constitutional form of government. We must fight and sacrifice to preserve these things and not permit indifference to allay our efforts.

The people of America have enjoyed the greatest blessings of any nation. These blessings have resulted in the most rapid progress in modern civilization. A free people, rigidly adhering to high ideals and principles for the preservation of what we have come to call the American way of life, have been, as the founding fathers were, willing to sacrifice their lives if necessary to keep them.

The illuminating torch of our spiritual and intellectual life rests today in the firm grasp of loyal Americans, who must continue to be worthy of their sacred heritage by meeting the problems of the immediate future with courage and devotion. We cannot, we must not, and we will not be dominated by forces of tyranny and evil that would impair or destroy our freedom. We know that liberty and peace of mind are more important than life itself. Though the lights of truth, right, and justice may be dimmed for a time,

it will not be long until they shine again with brilliancy and glory, for these principles are eternal and must endure.

The men who laid the foundation upon which our country has prospered, built on the belief that tolerance and brotherly love were only attainable in a free country. The generations that have followed have recognized that underlying the charter of their liberties are principles that were divinely inspired. Our Constitution and Bill of Rights, the latter an integral part of the former, were conceived and executed during a period of intense national emotion, but the men who wrote these documents had studied every form of government which the earth had seen, and their conclusions were not prompted by emotion but by the deepest convictions. The principles so clearly set forth in these documents are recognized as the cornerstone of a structure which stands as the greatest work of human minds. What they accomplished in providing freedom for mankind was the greatest work of its kind that the world had ever seen. Most of the men representing the thirteen original colonies by their actions were voicing the lessons taught to them by Christianity, and in the document



Photo by Abbie Rowe—Courtesy, National Parks Service

Recently entirely rebuilt, except for the outside walls, the Executive Mansion in Washington will have a new occupant this quarter. We wish the incoming administration every success.

which they wrote they adopted the admonitions of Jesus Christ.

All principles underlying our civil and political liberty were indelibly written into the Constitution of our country. It can be truthfully said that in writing the Constitution they built an altar to liberty. The great English statesman W. E. Gladstone described it in these forceful words:

"The American Constitution is, so far as I can see, the most wonderful work ever struck off at a given time by the brain and purpose of man. It has had a century of trial, under the pressure of exigencies caused by an expansion unexampled in point of rapidity and range: and its exemption from formal change, though not entire, has certainly proved the sagacity of the constructors, and the stubborn strength of the fabric."

To the average American there are certain principles of government which, until quite recently, were generally accepted without question. These include the proposition that the people are sovereign, that the government and its administrators are servants of the people and not their masters, that the government can exercise no powers except those expressly conferred upon it by the Constitution, and that the rights of an individual are greater than the demands of a thousand who would deprive him of any basic right. These rights should have the deepest meaning for every man, woman, and child in this land. To all American citizens who seek their benefits for themselves they must be recognized as a solemn obligation from which there can be no relief.

FIRST QUARTER

We must not be apathetic or insensitive to the conditions that now threaten our liberties, nor must we lessen our vigilance. God grant us strength to defend our country against inhuman and degrading influences, and God grant us help to awaken the world to dangers that confront it before it is too late.

There are four most important institutions in our country that must always have our serious concern: the home, the school, the church, and the government.

The American home is the keystone of physical life, and on it the future of our nation depends. Our school system has the important obligation of preparing the minds of our youth to preserve the American way of life against serious assault, and to the church is committed the preservation and enrichment of spiritual life. The government is obligated to protect the three just named and all of their institutions, which are founded on fundamental principles, and see that none interferes with their lawful enjoyment of the rights that belong to them. The government also must protect citizens in the pursuit of lawful industry. It must see that none takes by force from them the property that they own, and do everything else that is necessary to preserve the welfare of all its citizens, great or small.

It has always been an American maxim that the main obligation of government is to protect our economy, which is the lifeblood supporting all its activities. To protect this economy from needless exploitation will eventually restore and safeguard our faith in our national leadership.

The First Amendment to the Constitution has erected a wall of separation between the church and state. Under this, men's religious rights are particularly protected. Here men may worship or not worship as they see fit. Their tenets of belief are not brought under the scrutiny of the law so long as they do not ask for themselves anything that would interfere with the equal rights of others.

So long as the government retains the confidence of the people and observes and defends the fundamentals of the Constitution, so long will our country be strong. So long as loyal and honest Americans continue to participate actively in the business of government and bring their ideals to bear upon the problems of society, so long will our democracy command respect and obedience from its citizens.

## The Miracle Decision

[This article is a reprint from the "Commonweal" of June 13, 1952. It is used by permission.]

**T**HE LONG AND BITTER CONTROVERSY OVER Roberto Rossellini's film "The Miracle" has ended in the unanimous decision by the United States Supreme Court reversing the decisions of the lower courts and declaring for "freedom of the screen" in America. And so, what began as the seemingly simple and clear-cut question of ecclesiastical authorities' warning Catholics against seeing a movie which they considered offensive to Christian doctrine and morals has resulted in a Court ruling which carries with it far-reaching cultural and constitutional implications.

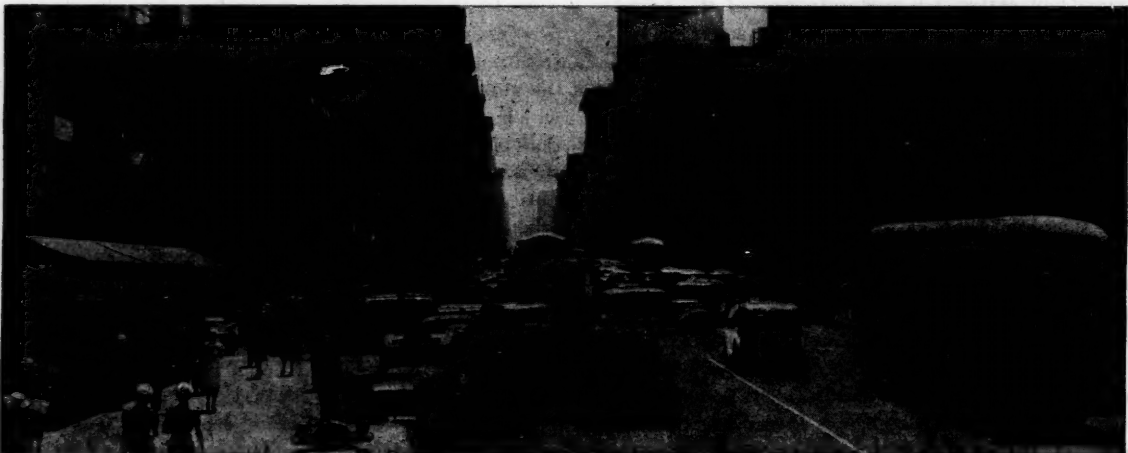
As the public controversy developed it became clear that what was at stake here was not so much the merits or demerits of, or the right to exhibit, a particular film, but rather issues which far transcended the film in question. What was disputed were the fundamental issues of freedom of expression on the screen and the right of the civil authority to ban a film on the grounds of "sacrilege." Both of these are issues which involve basic concepts of American freedom and constitutional power, and it was these things, rather than whether or not "The Miracle" was indeed

sacrilegious, which the Supreme Court was asked to decide.

John Courtney Murray, S.J., has observed that the American Constitution embodies a unique historical realization of the "lay" state, as opposed to the absolutely autonomous Continental "laicized" state.

"In the First Amendment," he writes, "the guarantee of religious freedom appears in relation, not to a rationalist theory of religion, but to a rational theory of the state. Its essential premise is the distinction of the civil and the ecclesiastical jurisdiction. . . . What the First Amendment fundamentally declares, as the constitutional will of the American people, is the 'lay' character of the state, its non-competence in the field of religion, the restriction of its competence to the secular and temporal."

What was really at stake in "The Miracle" controversy was this unique lay character of the American State. The civil power was in danger of playing the role of theologian by attempting to determine a properly religious concept. The Supreme Court's decision has repudiated any such role for the State and has made a clear distinction between civil and religious functions. Far from this being an



Fulco, From Triangle

The highest court has declared for "freedom of the screen" in America.

"anti-religious," or "secularist-motivated" decision, it is one which rests on that enlightened, rational, and truly liberal philosophy of civil and religious freedom about which Father Murray has written.

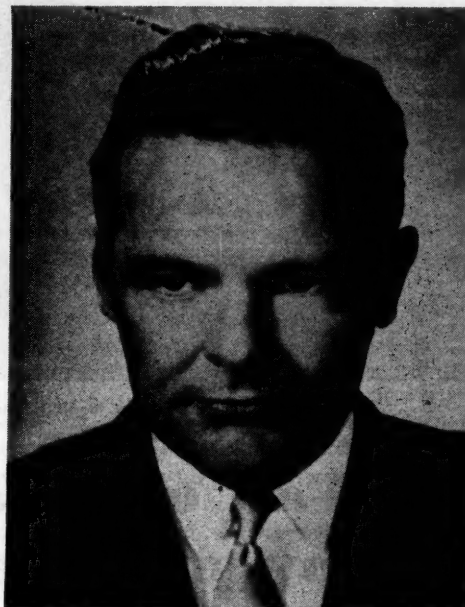
The dangers were real, and one need only contemplate the possibilities latent in any decision which had upheld New York State's suppression of Rossellini's film to realize how tragic such a decision would have been. In this case the issue was raised over a film which is, undoubtedly, offensive to a number of Catholics, but it might just as easily have been raised over a film like, say, "The Song of Bernadette," being banned by a local censorship board in some predominantly non-Catholic community because the film's exaltation of the Blessed Virgin Mary was objected to as "sacrilegious" by a majority of the local citizens.

One could easily multiply examples of this sort, and they are not far-fetched. The point is not one that denies the objective nature of sacrilege but rather that in a society like ours, which is basically pluralistic, the definition and enforcement of such a properly theological concept must lie outside the competence of the civil power.

As a result of this, minorities are, from time to time, going to be offended. But when they are, they must not demand the cessation of the very civil immunity which they themselves enjoy, and which may easily lead them tomorrow to offend the susceptibilities of some other minority. The result of the State's interfering to suppress "sacrilege" whenever a minority is offended could only be its assuming the most monstrous universal competence and banning as "sacrilegious" anything and everything which might offend the religious sensibilities of *any* minority (which would obviously include any film based on the divinity of Christ), or to the situation described by Justice Frankfurter "whereby the censor bans only that against which there is a substantial outcry from a religious group." Either situation would be intolerable.

Catholics have done much lamenting in the past over the secularistic basis of modern liberalism, its hostility to the religious spirit and its anti-clericalism. There is no question that these elements have been and are present in the liberal tradition, and that they must be opposed by every Catholic. But their presence may be explained, at least in part, by the fact that Catholics have too often absented themselves from the formation of the modern world. Nostalgic for a sacral past, anxious to preserve our own special privileges, we have too frequently left the struggle for civil freedom to those who know nothing of the profound spiritual roots of that freedom.

The results of this absence have often been tragic. The modern world has been born (nothing could prevent that), but it has not yet been baptized. If it is to be baptized, increasing numbers of Catholics



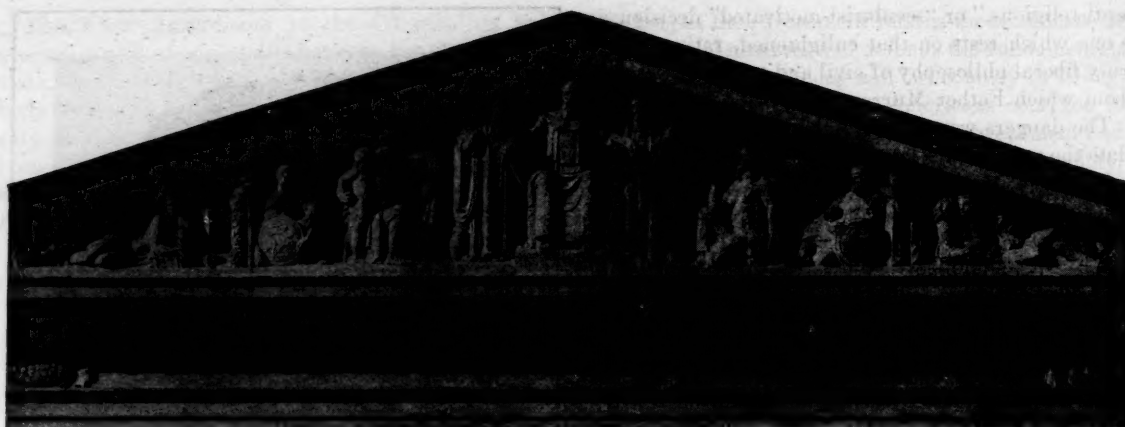
William Charles

The Honorable Henry Cabot Lodge, Jr., former U.S. Senator from Massachusetts, has been selected to head the American delegation to the United Nations.

must make it absolutely, unequivocally clear that this world is not a bastard, that its origins are legitimate and its mission honorable, that it is a world not [to] be abolished but rather to be blessed and redeemed. This can only be done by Catholics' realizing that living in it involves certain hazards which are absent from a sacral order, but that the acceptance of these hazards and their related discomforts is an easy price to pay for the great advantages which this world offers.

Catholics might well make it clear that they accept the modern "lay" state, with its division of civil and religious power, as something to be grateful for, and resist any such attempts to vitiate or alter the character of this state as were present in the New York censorship of a film which many found distasteful. Any claim to special privilege or protection in this state should be repudiated and a willingness shown to espouse the cause of legitimate freedom even when this freedom leads to something which may be found repugnant. Only in this way will the critics of American Catholicism be effectively answered, and only then will the Church be able to speak to many in the modern world.

By refusing to allow the wise distinctions between civil and religious power to be obscured, by speaking boldly for freedom of ideas on the screen, and questioning local prior censorship of this medium, the Supreme Court has rendered an historic service to the cause of both civil and religious liberty.



T. Horydusk

The pediment on the east front of the United States Supreme Court Building. Moses, a lawgiver of the past, is the central figure.

## The Wall of Separation: The Law and the Facts

By CONRAD HENRY MOEHLMAN

[This article was printed in the *American Bar Association "Journal"* of April, 1952. We reprint by permission.—EDITORS.]

**R**ECENT CRITICS ATTEMPT to befog the issue of the state and religion by discussing together all cases involving any religious activity or belief and implying that the church wins one round and the state the next in an unpredictable teeter-totter fashion.

Upon analysis of the factual situations before the Supreme Court, a clear pattern of majority decision emerges.

No state may tax the exercise of *any* of the freedoms guaranteed by the First Amendment; there can be no prior censorship of speech; parents are free to send their children to the school of their choice and teachers are free to teach any branch of knowledge; no person can be compelled to submit to any ceremony or affirm any creed against his will; neither the state nor the Federal Government may aid one religion or all religions; the First Amendment has erected a wall of separation between church and state which has been and shall be maintained high and impregnable.

It is now settled that a state or municipality may not impose a license tax upon the exercise of the freedoms guaranteed by the First Amendment. *Murdock v. Pennsylvania*, 319 U.S. 105, *Jones v. Opelika*, 316 U.S. 584, 319 U.S. 103.

It is equally well-settled that a state or municipality may not employ a system of control over the

use of its streets, parks and public places which either by custom or statute confers a power of prior censorship upon the administrative officials. *Kunz v. New York*, 340 U.S. 290; *Niemotka v. Maryland*, 340 U.S. 268; *Saia v. New York*, 334 U.S. 558.

Yet states and municipalities are free to regulate the use of streets and public places for sound dissemination when there is no element of censorship involved in the regulation. *Kovacs v. Cooper*, 336 U.S. 77; *Geuss v. Pennsylvania*, (cert. den.), 20 U.S. Law Week 3185.

The majority opinions in the foregoing cases do not depend upon the guaranty of religious freedom set forth in the First Amendment, even though some of the dissenting and concurring opinions have confused the issues and *rationes decidendi* by assuming that religion was the crux of the matter. Each of these cases would have been correctly decided with the same result on a basis of free speech and press. All these cases consistently adhere to the two principles that (1) there can be no tax levied upon the exercise of the freedoms guaranteed by the First Amendment and (2) there can be no prior censorship of speech and a person is as free to talk about religion as anything else.

Another group of cases which has nothing to do with freedom of religion or the power of the state to support religion are those cases dealing with the liberty of a parent to send his child to the school of his choice and the liberty to teach any branch of knowledge. These cases are *Meyer v. Nebraska*, 262

U.S. 390, and *Pierce v. Society of Sisters*, 268 U.S. 510.

In the *Meyer* case, *supra*, the Supreme Court held that a state statute prohibiting the teaching of modern foreign languages to students below the eighth grade was a deprivation of liberty without due process of law within the ban of the Fourteenth Amendment. In the *Pierce* case, *supra*, the Court held that a statute requiring parents to send their children to particular schools, in this case public schools, deprived the parents of liberty and private schools of property without due process of law.

The problem of the conflict between religious scruple and the requirements of the general law has plagued the Western world from the days of the Roman Empire to our own day. To state the problem is to point up the impossibility of evolving any solution satisfactory to both contestants.

In *Hamilton v. University of California*, 293 U.S. 245, the Supreme Court held that a state could constitutionally require military training of students at state colleges, regardless of the individual student's religious views on military service. Attendance at such colleges being a privilege, not a duty, the state can attach reasonable conditions thereto and a person's freedom to worship as he chooses does not confer upon him a right to enroll at a college.

*Prince v. Massachusetts*, 321 U.S. 128, held that the religious duty to preach the gospel must yield to the police power of the state to regulate child labor.

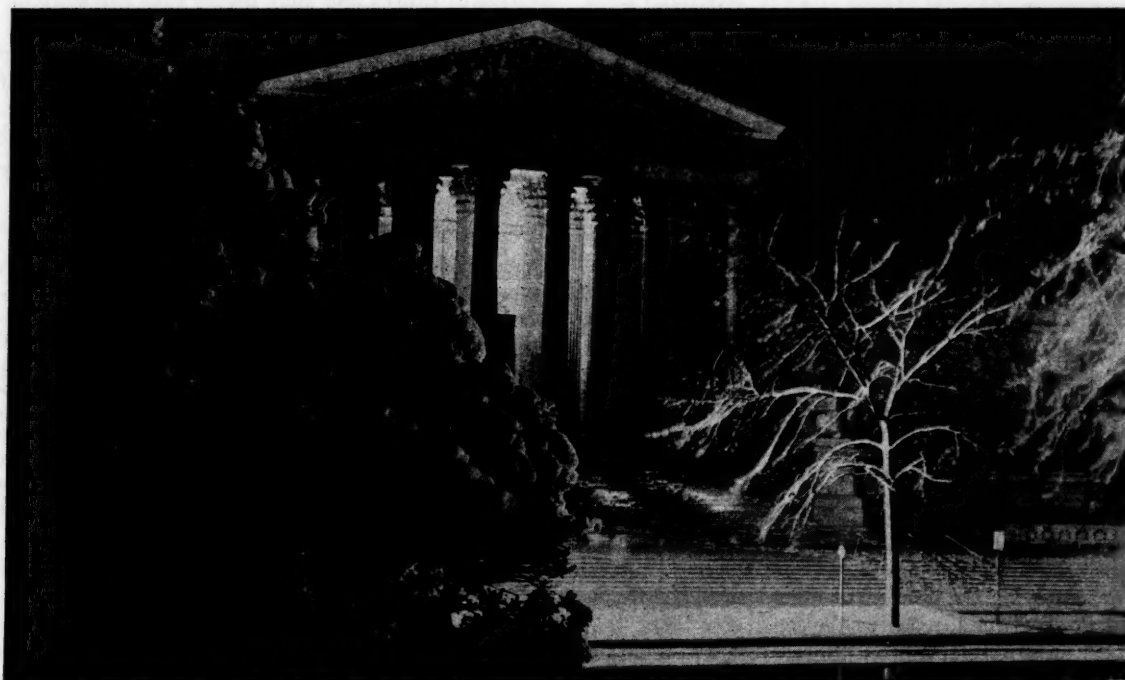
*Board of Education v. Barnette*, 319 U.S. 624, raised the question from another standpoint. This case

involved the power of the State of West Virginia to compel pupils in her public schools to salute the American flag or be penalized, along with their parents, for the omission. The Court held that the state has no power to compel a person to affirm any belief.

*Board of Education v. Barnette*, *supra*, was decided in 1943. *Everson v. Board of Education*, 330 U.S. 1, was decided in 1947, and dealt, like *McColum v. Board of Education*, 333 U.S. 203, with state support of religious activity. It has been suggested that *Chief Quick Bear v. Leupp*, 210 U.S. 50, decided in 1907, foreshadowed a contrary result. Suffice it to say that the policies of the United States toward the Indian nations is beyond the scope of this paper.

*Everson v. Board of Education*, 330 U.S. 1, held that reimbursement to parents by the state of money expended by them for the bus transportation of their children on regular buses, operated by the public transportation system, to public and Catholic schools did not offend the Federal Constitution. This was a five-to-four decision, Justices Jackson, Frankfurter, Rutledge and Burton being of the opinion that such reimbursement constituted an establishment of religion.

One year later, the Supreme Court in *McColum v. Board of Education*, 333 U.S. 203, held that the use of public-school buildings during regular school hours for religious instruction on a released time basis did constitute an establishment of religion contrary to the First Amendment, made applicable to the states



Lionel Green

Winter comes to the nation's capital, covering everything with soft white snow, including the United States Supreme Court Building.

by the Fourteenth Amendment. There was only one dissent.

Mr. Justice Black wrote the majority opinions in both the *Everson* and *McCullum* cases. The holding in the *McCullum* case was based squarely upon the definition of the scope of the religious clause of the First Amendment set forth in the *Everson* case. It is around this definition that controversy has arisen. In the *Everson* case, Justice Black, speaking for a majority of the Court, wrote:

"The 'establishment of religion' clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or to remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and *vice versa*. In the words of Jefferson, the clause against establishment of religion by law was intended to erect 'a wall of separation between church and State.'" *Reynolds v. United States*, *supra*, at 164. [Pages 15, 16.]

### **McCullum Case Is Attacked as Novel and Erroneous**

Since the application of this principle to the facts in the *McCullum* case, this interpretation of the religious clause of the First Amendment has been vigorously and sincerely attacked by persons of diverse religious persuasions as being a novel and erroneous interpretation of the First Amendment. These critics argue that the prohibition against establishment of religion merely prohibits the preference of one sect over another and leaves the states and the Federal Government free to co-operate with and presumably promote all religions in a nondiscriminatory fashion.

It is generally recognized by both historians and legal scholars that James Madison was the principal author of the Bill of Rights and that he devoted his time and attention with particular care to the phraseology of the religious clause of the First Amendment. Some inquiry, therefore, into the views expressed by Madison throughout his public life is enlightening.

At 18 years of age he chose to matriculate at Princeton in preference to William and Mary. One of his reasons was that the president of William and Mary was organizing a group attempting to secure an American episcopate. Princeton was opposed to the establishment idea. Within three years Madison was studying the practice of toleration in the Colony of Pennsylvania, reaching the conclusion that "... ecclesiastical establishments tended to great ignorance and corruption; all of which facilitates the execution of mischievous projects."<sup>1</sup>

At 25, Madison participated in the formulation of the Virginia Declaration of Rights with its Sixteenth Section: "That religion, or the duty which we owe to our creator, and the manner of discharging it, can be treated only by reason and conviction, not by force or violence; and, therefore, all men are equally entitled to the free exercise of religion according to the dictates of conscience. . . ."

For Madison, philosophy demanded a free mind and politics was not a branch of theology.<sup>2</sup>

In 1784 when some Protestant clergymen in Virginia hoped to secure state support of religion, rallying to secure the adoption of the Assessment Bill, Madison composed his *Memorial and Remonstrance*, observing that any financial support of religion was antithetical to freedom of conscience. Over and over again he termed any tax support "an establishment of religion," and considered any compulsory contribution to religion through taxes as a violation of the individual's religious liberty. Financial support of religion was unconstitutional either if the basic law forbade an establishment of religion or if it guaranteed the rights of conscience, and he defeated Patrick Henry and his coadjutors advocating the assessment.

Again, in 1785, when the confederation congress committee dealing with the Northwest land problem urged that one section in each township should be reserved for support of public education and another section for the maintenance of religion, Madison secured the striking out of the latter by the full Congress. *If this is not applying the principle of separation of church and state before even the adoption of a United States Constitution, what is it?*

At 35 years of age, Madison was a leader of the group in Virginia contending for the adoption of the "Virginia Bill for Establishing Religious Freedom," drafted largely by Jefferson, with its classic defense of freedom of conscience in Section 1, maintaining

"that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion is depriving him of the comfortable liberty of giving his contributions to. . . [and the enactment in Section II of] no man shall be compelled to frequent or support any religious worship . . . nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain their opinion in matters of religion, and that the same shall in no wise diminish, enlarge or affect their civil capacities. . . ."

### **Madison Regarded Act as True Standard of Religious Liberty**

Since it required seven long years to obtain the adoption of this Bill, it is no wonder that Madison, late in life, looking back upon the struggle for reli-

gious freedom in Virginia, and equating this statute with the religious clause of the First Amendment, wrote:<sup>1</sup>

"This act is a true standard of religious liberty: its principle the great barrier (the word of George Washington) against usurpation on the rights of conscience. As long as it is respected and no longer, these will be safe. Every provision for them short of this principle, will be found to leave crevices, at least, through which bigotry may introduce persecutions; a monster, that feeding and thriving on its own venom, gradually swells to a size and strength overwhelming all laws divine and human."

We find that the Constitution of the United States not only omitted all reference to the Deity, but specifically provided: "We, the people of the United States . . . do ordain and establish this Constitution for the United States of America," and "*This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made, under the authority of the United States, shall be the supreme law of the land, . . . no religious test shall ever be required as a qualification to any office or public trust under the United States*" (Article VI).

In an attempt to inject the Deity into the strictly secular institutions of the United States and provide Divine sanction for our Government, certain well-meaning persons read the Declaration of Independence of 1776, in *pari materia* with the Constitution, written in 1787, eleven years later. The Declaration was a call to arms, invoking the aid of all forces, human and divine, to turn the oppressor George III from these shores. The Constitution was a carefully drafted instrument of government, superseding the Articles of Confederation, and was the product of many minds working over a period of many months. Of the thirty-nine signers of the Constitution, only six had signed the Declaration. The Constitution is not to be interpreted or glossed by antecedent American social compacts from the Mayflower Compact to the Articles of Confederation. The Constitution and all laws and treaties made pursuant thereto are "the supreme law of the land," and the Constitution itself is the sole fountainhead of American government.

In the First Congress of the United States, the Bill of Rights was debated and adopted. For lack of space it must be assumed that the hinterland of that debate is known: Roger Williams' experiments with religious freedom in Rhode Island, the multiplicity of sects in the British Colonies of North America, the rapidly disintegrating power of the various churches established in the colonies, the actual achievement of religious liberty in Virginia, the experiments under the Continental Congress, the adoption of the Ordinance of 1787, the debates over the Constitution itself, the terrible anguish over the distribution of the costs of the Revolutionary War, the anti-Catholic mood in New England and the furious fight against direct taxation.

In this First Congress Madison made two proposals on the matter of religion; one was concerned with the full maintenance of equal rights of conscience from the national point of view, the other with maintenance of freedom of conscience *by the separate states*. He won on both points in the House.

In the Senate an attempt was made under the leadership of New England to introduce the principle of multiple-establishment. One of the primary purposes behind the multiple-establishment proposal was to prevent Roman Catholics from acquiring complete religious liberty in the United States. The Joint Committee of the Senate and the House compromised on the present reading of the religious clause of the First Amendment, which committed only the Federal Government to the principle of free exercise of religious worship, civil rights of conscience, no establishment of any, several or all religions, no co-operation between the national government and one or several churches, no "religious" taxes, and no promotion or sponsorship of Christianity.<sup>2</sup> Because the Senate rejected the proposal of Madison and House of Representatives to apply the religious clause to all the states, the Fourteenth Amendment finally became the instrument of securing Madison's objective:<sup>3</sup>

"The final version of the First Amendment was definitely a victory for Madison and for the more democratic House. It incorporated a prohibition upon the broader meaning of 'establishment' for which Madison had fought consistently ever since the time of the Virginia Declaration of Rights in 1776 and the Remonstrance of 1785. This detailed step-by-step evolution of the wording of the First Amendment is necessary to show that it was not accidentally or carelessly formulated. It had a definite meaning that not only stood firm against the half measures of the earlier debates in the House and final Senate version but also incorporated them into its broader meaning. The clause 'an establishment of religion' included all the desires to prohibit a single established church, but it also applied to plural support of many or all religions. It not only prohibited legal sanction for any one or all doctrines or forms of worship, but also it prohibited any financial support, directly through tax funds or indirectly through land, for any one of many churches, or for religion in general."

The religious clause of the First Amendment in its final form, Madison said a little later in the same Congress that adopted the First Amendment, meant that: "General government was proscribed from interfering in any way in matters respecting religion. . . ." And when the religious clause came before him on February 28, 1811, when he was President

<sup>1</sup> Irving Brant, *James Madison*, Indianapolis, 3 volumes, 1941, and Irving Brant, "Madison: On Separation of Church and State" in *William and Mary Quarterly*, January, 1951, pages 3 ff.

<sup>2</sup> C. H. Moehlman, *The American Constitution and Religion*, Berne, Indiana, 1938, page 38.

<sup>3</sup> T. V. Smith, *The Annals*, May, 1951, page 207.

<sup>4</sup> Brant, *op. cit.*, pages 8, 11.

<sup>5</sup> Moehlman, *op. cit.*, pages 39, 40.

<sup>6</sup> Brant, "Madison: On Separation of Church and State" in *William and Mary Quarterly*, January, 1951.

<sup>7</sup> R. Freeman Butts, *The American Tradition in Religion and Education*, Boston, 1950. Brant, *James Madison*, *op. cit.*, Vol. 3, XXI, pages 264-275.

<sup>8</sup> Butts, *op. cit.*, page 90.

of the United States, he expressed the same opinion when he vetoed a grant of land to an independent local Baptist church as the beginning of a religious establishment. Moreover, in his *Essays on Monopolies*, so long unknown, he cited land grants as tending to break down the strongly guarded separation between religion and government: "The Constitution of the United States of America forbids anything like an establishment of a national religion." Similarly, he regarded the payment of chaplains as a violation of the religious clause."

Thomas Jefferson, author of the Virginia statute of religious liberty, in his First Inaugural Address, March 4, 1801, enumerated fifteen points as the essential principles of our Government. In the first and twelfth he makes reference to religion: "Equal and exact justice to all men, of whatever state or persuasion, religious or political," and "freedom of religion." Even within the narrowest compass of a brief inaugural Jefferson did not assume that his many achievements in behalf of separation of church and state could be taken for granted. Everyone was familiar with the struggle for complete religious liberty in Virginia, and Jefferson's insight as a lad of 24 in demonstrating that Christianity was not a part of the common law of England, and "that to compel a man to furnish contributions or money for the propagation of opinions in which he disbelieves is sinful and tyrannical. . . ."

#### Letter to Danbury Baptists Shows Jefferson's Views

It was on January 1, 1802, that Jefferson wrote his celebrated letter to the Danbury Baptist Association, Connecticut, in which he said:

"Believing with you that religion is a matter which lies solely between man and his God; that he owes account to none other for his faith or his worship; that the legislative powers of the government reach actions only, and not opinions,—I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should 'make no law respecting an establishment of religion or prohibiting the free exercise thereof,' thus building a wall of separation between church and state. Adhering to this expression of the supreme will of the nation in behalf of the rights of conscience, I shall see with sincere satisfaction the progress of those sentiments which tend to restore man to all his natural rights, convinced

All our rights and freedoms were built upon and inhere in the religious clause of the First Amendment, upon what Jefferson in 1802 described as "a wall of separation between church and state."

he has no natural right in opposition to his social duties. [Italics added.]"

In 1822 James Madison wrote to Governor Livingston on July 10, saying: "I observe with particular pleasure the view you have taken of the immunity of religion from civil government, in every case where it does not trespass on private rights or the public peace. This has always been a favorite doctrine with me."

That this interpretation of the religious clause of the First Amendment has erected a "wall of separation between church and State" and prohibits government support of religion was taken for granted in the framing of the various state constitutions and resulted in the gradual disestablishment of churches by the states."

So prominent a nineteenth century historian as George Bancroft believed that, even without the religious clause of the First Amendment, the Congress of the United States could never have passed a law respecting the establishment of religion because Congress has no powers except those specifically conferred upon it and nowhere was any power over religion so conferred."

Others considered that Article VI, Clause 3, forbidding test oaths, excluded the establishment of any particular church or denomination as a national religion. It secures the freedom and independence of the state from ecclesiastical domination and interference."

Those persons who contend that the religious clause of the First Amendment leaves it open to the Congress to aid all religions impartially generally concede that without the First Amendment the Federal Government would have no power to aid religion on any basis. As Madison put it: "There is not a shadow of right in the general government to intermeddle with religion." The proponents of nonpreferential aid to all religions must, therefore, take the position that the prohibition *against* laws respecting an establishment of religion in fact, conferred that power."

After the Civil War the application of the principle of complete separation of church and state has been accelerated by the application of the First Amendment to all the states through the Fourteenth Amendment and a greater consistency of application in the rapidly changing environment of the twentieth century. By the ratification of the Fourteenth Amendment the adoption of Madison's proposals with reference to religion in the First Congress was completed."

In 1872 the Supreme Court of Ohio construed the following language of the Northwest Ordinance, as incorporated in the Constitution of the State of Ohio, in *Board of Education v. Minor, supra*: "Religion, morality and knowledge, however, being essential to good government, it shall be the duty of the general assembly to pass suitable laws to protect every religious denomination in the peaceable enjoyment of

its own mode of public worship, and to encourage schools and the means of instruction." And said: "We have no right to tax him to support religious instructions; that to tax a man to put down his own religion is of the very essence of tyranny; that, however small the tax, it is a first step in the direction of the 'establishment of religion,' and I should add, that the first step in that direction is the fatal step, because it logically involves the last step."

Taking Madison's interpretation as authoritative, the Supreme Court of Ohio went on to say:

"Government is an organization for particular purposes. It is not almighty, and we are not to look to it for every thing. The great bulk of human affairs and human interests is left by any free government to individual enterprise and individual action. Religion is eminently one of these interests, lying outside the true and legitimate province of government."

"Counsel say that to withdraw all religious instruction from the schools would be to put them under the control of 'infidel sects.' This is by no means so. To teach the doctrines of infidelity, and thereby teach that Christianity is false, is one thing; and to give no instructions on the subject is quite another thing. *The only fair and impartial method, where serious objection is made, is to let each sect give its own instructions, elsewhere than in the State schools, where of necessity all are to meet; and to put disputed doctrines of religion among other subjects of instruction, for there are many others, which can more conveniently, satisfactorily, and safely be taught elsewhere.*"

President Grant opposed tax exemption of religious property as leading to a violation of the principle of separation of church and state.<sup>9</sup>

In 1878 in *Reynolds v. United States*, 98 U.S. 145, after quoting Jefferson's letter to the Danbury Baptist Association, Mr. Chief Justice Waite speaking for a unanimous Court said: "Coming as this does from an acknowledged leader of the advocates of the measure, it may be accepted almost as an authoritative declaration of the scope and effect of the amendment thus secured."<sup>10</sup>

James A. Garfield, in a letter accepting nomination for the Presidency, observed: "The separation of the Church and the State in everything relating to taxation should be absolute."<sup>11</sup>

Thomas M. Cooley is a competent authority on the interpretation of the religious clause of the First Amendment. In enumerating "those things which are not lawful under any of the American institutions," Cooley lists the following:<sup>12</sup>

"Any law respecting an establishment of religion . . . Compulsory support by taxation or otherwise, of religious instruction. Not only is no one denomination to be favored at the expense of the rest, but all support of religious instructions must be entirely voluntary. It is not within the sphere of government to coerce it. Compulsory attendance upon religious worship. . . Restraints upon the free exercise of religion according to the dictates of the conscience. . . Restraints upon the expression of religious belief. [Italics added.]"

Thus the principles affirmed in the *Everson* case and applied in the *McCullum* case were by no means

novel or original, but had been the declared law of the land since 1791. No member of the Court dissented from the interpretation of the religious clause of the First Amendment announced in the *Everson* or *McCullum* cases. The only difference of opinion was over the application of the acknowledged principle to the facts of the particular case.

In the *Barnette* case Mr. Justice Jackson, a dissenter in *Everson*, who concurred in *McCullum*, wrote, speaking for the Court: ". . . Free public education, if faithful to the ideals of secular instruction and political neutrality, will not be partisan or enemy of any class, creed, party, or faction."<sup>13</sup>

Justice Frankfurter, dissenting in the *Barnette* case, said:<sup>14</sup>

"The prohibition against any religious establishment by the government placed denominations on an equal footing—it assured freedom from support by the government to any mode of worship, and the freedom of individuals to support any mode of worship. . . . Otherwise the doctrine of separation of church and State, so cordial in the history of this nation and for the liberty of our people, would mean not the disestablishment of a State church, but the establishment of all churches and of all religious groups. [Italics added.]"

Dissenting in the *Everson* case, Justice Jackson wrote: "The prohibition against any establishment of religion cannot be circumvented by a subsidy,

<sup>9</sup> Butts, *op. cit.*, Brant, *James Madison, op. cit.*, Volume III, pages 272 ff. Moehlman, *Wall of Separation Between Church and State*, pages 112 f.

<sup>10</sup> *Board of Education v. Minor*, 23 Ohio St., 211, 13 Am. Rep. 233, at 250.

<sup>11</sup> Moehlman, *The American Constitution and Religion, op. cit.*, pages 54-100.

<sup>12</sup> Philip Schaff, *Church and State, Proceedings of the American Historical Association*, 1888, page 137. This opinion was also held by various members of the First Congress: Mr. Sherman thought the Amendment altogether unnecessary, inasmuch as Congress had no authority whatever delegated to them by the Constitution to make *Religious Establishment*. 1 *Annals of Congress*, 729 (1789). Charles A. Beard, in *The Republic* at page 165 said: "The Constitution is a purely secular document. The promotion of religion is not among the declared purposes set forth in the Preamble."

<sup>13</sup> Schaff, *op. cit.*, page 22.

<sup>14</sup> Leo Pfeffer, "Church and State: Something Less Than Separation," 19 *Univ. Chi. L. Rev.* 28.

<sup>15</sup> *Cantwell v. Connecticut*, 310 U.S. 296, 303; *State ex rel. Boling v. Superior Court*, 16 Wash. (2d) 373, 377. Butts, *op. cit.*, pages 107 ff. Alvin Johnson, *The American Historical Review*, April, 1951, page 606.

<sup>16</sup> *Seventh Annual Message to Congress*, December 7, 1875, 9 *Messages and Papers of the Presidents*, 1897, pages 4288-4289.

<sup>17</sup> 98 U.S. 164.

<sup>18</sup> *The Works of James Abram Garfield*, Hinsdale, 1883, page 783.

<sup>19</sup> Cooley, *Constitutional Limitations*, 1883, page 576 ff, and subsequent editions.

<sup>20</sup> 319 U.S. 637.

<sup>21</sup> 319 U.S. pages 653-655.

James Madison, father of the inclusive interpretation of the religious clause of the First Amendment, regarded religious liberty as the core of all freedoms. Without it there could be no civil liberty.

bonus or reimbursement of expense to individuals for receiving religious instruction and indoctrination.”<sup>22</sup>

Justice Rutledge, with whom Justices Frankfurter and Burton concurred, dissenting in the *Everson* case, declared: “In view of this history no further proof is needed that the Amendment forbids any appropriation, large or small, from public funds to aid or support any and all religious exercises,”<sup>23</sup> and appended Madison’s *Memorial and Remonstrance* to his opinion.

Justice Reed, the lone dissenter in the *McCullum* case said: “The Court’s opinion quotes the gist of the Court’s reasoning in *Everson*. I agree, as there stated, that none of our governmental entities can ‘set up a church.’ I agree that they cannot ‘aid’ all or any religions or prefer one ‘over another.’” 333 U.S. 248.

Thus the interpretation that the First Amendment prohibits either the state or Federal Government from aiding one or all religions and has erected a wall of separation between church and state was based squarely on the unanimous decision of the Court in *Reynolds v. United States* in 1878 and was the unanimous interpretation of the Justices in the *Everson* and *McCullum* cases.

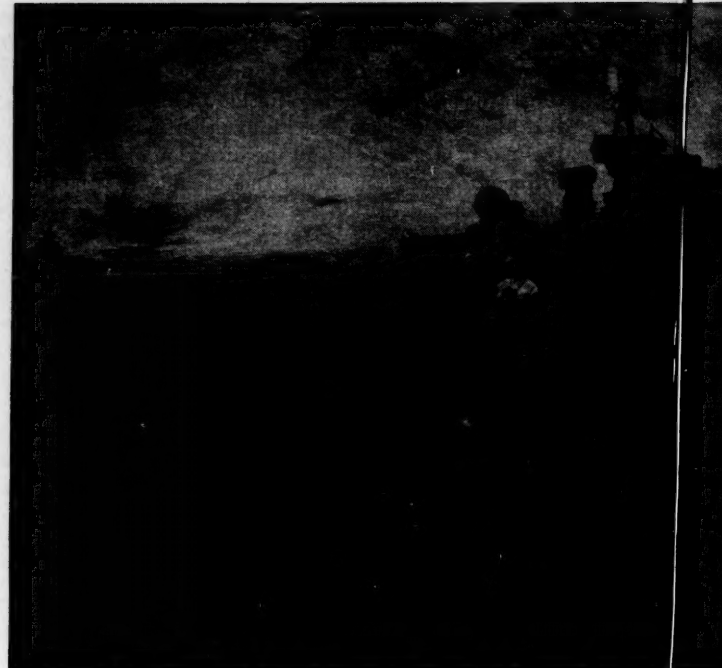
The Constitution was a bill of duties, objective and impersonal. The Bill of Rights was the protection of the individual, subjective and personal. The radical roots of both were the dignity of man, the sanction of conscience for decisions which, therefore, must be free. Political parties are merely opinion groups with any individual free to break with his party and vote against his party platform and its candidates.”<sup>24</sup>

### All Our Rights Are Built on the First Amendment

All our rights and freedoms were built upon and inhere in the religious clause of the First Amendment, upon what Jefferson in 1802 described as “a wall of separation between church and state.” This had never been in the history of civilization and was bequeathed by the United States to Europe and to the world. Hence, a political scientist describes it as “the greatest contribution to the science of government”; a church historian as one of the “largest contributions of the new world to civilization and to the church universal.”<sup>25</sup>

So James Madison, father of the inclusive interpretation of the religious clause of the First Amendment, regarded religious liberty as the core of all freedoms. Without it there could be no civil liberty. But for him liberty of conscience was unthinkable apart from a total separation of government and religion.”<sup>26</sup>

Since 1791, in the United States, religion has been voluntary not compulsory. Our Government must be neutral in all religious controversies. It cannot support any religion. There can be no religious tests for



T. Horydczak

This shows the entire painting on the southwest stairway of the United States Capitol in W

office: “The American system grants freedom also to irreligion and infidelity but only within the limits of order and safety of society.”<sup>27</sup>

The religious clause of the First Amendment not only deprived the United States of all legislative control over religion but this was the first time in the history of the world that so radical and revolutionary a separation between church and state had ever occurred: “The United States furnishes the first example in history of a government deliberately depriving itself of all legislative control over religion, which was justly regarded by all older governments as the chief support of public morality, order, peace, and prosperity.”<sup>28</sup>

The religious clause makes governmental support of any or all churches impossible: “The necessary consequence of the separation of church and state is the voluntary principle of self-support and self-government. Christianity is thrown upon its own resources. It has abundantly shown its ability to maintain itself without the secular arm of government.”<sup>29</sup>

The religious clause of the First Amendment makes a division of the school fund for sectarian purposes impossible.

It would be difficult to discover a more competent or authoritative scholar than Heinrich A. Rommen in the area of church and state on the Catholic side. He summarizes the constitutional principle of separation as signifying that no religious group or church enjoys any juridical or political privileges and none may receive any direct or indirect financial support from the state: all churches are legally organized



White House in Washington. Our cover shows only the left portion of this very large canvas.  
Emanuel Leutze, Artist

upon the basis of civil law; the organization is left to the will of its members; the legal relations between church and state are reduced to a minimum—legally they have no relations with each other.<sup>30</sup>

Governor Alfred E. Smith, when campaigning for President of the United States, said:<sup>31</sup>

"I summarize my creed as an American Catholic. I believe in the worship of God according to the faith and practice of the Roman Catholic Church. I recognize no power in the institutions of my Church to interfere with the operations of the Constitution of the United States or the enforcement of the law of the land. I believe in the absolute freedom of conscience for all men and in equality of all churches, all sects, and all beliefs before the law as a matter of right and not as a matter of favor. I believe in the absolute separation of Church and State and in the strict enforcement of the provisions of the Constitution that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. I believe that no tribunal of any church has any power to make any decree of any force in the law of the land, other than to establish the status of its own communicants within its own church. I believe in the support of the public school as one of the cornerstones of American liberty. I believe in the right of every parent to choose whether his child shall be educated in a public school or in a religious school supported by those of his own faith. . . ."

### Americans Should Heed Verdict of European Scholars

It would be very stupid for Americans as they stand at the parting of the way, casting their eyes back upon the tragedy of union between church and state, not to listen to the verdicts of European scholars, who have lived under such disabilities, upon the

American pattern. Hence we note their interpretation with deep interest.

It was Francis Lieber<sup>32</sup> who wrote this in mid-nineteenth century:<sup>33</sup>

"It belongs to American liberty to separate entirely the institution which has for its object the support and diffusion of religion from the political government. . . . [All state governments] adhere strictly to these two points: (1.) No worship shall be interfered with, either directly by persecution, or indirectly by disqualifying members of certain sects, or by favoring one sect above the others; and no church shall be declared the church of the state or 'established church'; (2.) Nor shall the people be taxed by government to support the clergy of all the churches, as in the case in France."

The foremost Christian church historian of the late nineteenth century and early twentieth century solemnly cautioned all to be on their guard against the political-church and religious state:

"In every nation, side by side with the constituted authorities, an unconstituted authority is established, or rather two unconstituted authorities. They are the political church and the political parties. What the political church wants, in the widest sense of the word and under very various guises, is to rule; to get hold of men's souls and bodies, consciences and worldly goods. What political parties want is the same; and when the heads of these parties set themselves up as popular leaders, a terrorism is developed which is often worse than the fear of royal despots.

"We must not blame the State for setting chief store by the conservative influence which religion and the Churches exercise. . . . But this is just the reason why the state exercises pressure in this direction . . . it has tried often enough to approximate the Church to the police, and employ it as a means of maintaining order in the State. We can pardon this—let the State take the means of power wherever it can find them; but the Church must not allow itself to be made into a pliant instrument; for, side by side with all the desolating consequences to its vocation and prestige, it would thereby become an outward institution in which public order is of greater consequence than the spirit, form more important than matter, and obedience of higher value than truth."<sup>34</sup>

Hitler passed the catechism course and Mussolini was not averse to employing the name of God.

The American plan of separation of church and

<sup>30</sup> 330 U.S. 24.

<sup>31</sup> 330 U.S. 41.

<sup>32</sup> Elvind Berggrav, *Man and State*, Philadelphia, 1951, pages 253-258, and J. H. Nichols, *Democracy and the Churches*, Philadelphia, 1951, pages 267 ff.

<sup>33</sup> Alvin Johnson, *The American Historical Review*, April, 1951, page 602; L. W. Bacon, *American Church History*, Vol. XIII, page 221.

<sup>34</sup> Brant, "Madison: On Separation of Church and State," *op. cit.*, pages 3 ff.

<sup>35</sup> Schaff, *op. cit.*, page 15.

<sup>36</sup> *Ibid.*, page 23.

<sup>37</sup> *Ibid.*, 78.

<sup>38</sup> Heinrich Rommen, *The State in Catholic Thought*, St. Louis 1945, pages 603-605; and Mochman, *The Wall of Separation Between Church and State*, Boston 1951, pages 116 ff. 137, 144, 178.

<sup>39</sup> Alfred E. Smith in *Atlantic Monthly*, May, 1927, page 728.

<sup>40</sup> An immigrant from Europe, whose career Elihu Root characterized thus: "It was a wonderful career. It was a great thing to be the author of the *Instructions*. It was a great thing to give the impetus which produced the *Institut de Droit International* and made possible the success of The Hague Conferences. . . . If our Society of American Society of International Law were about to choose a patron saint, and the roll were to be called, my voice for one, would answer Francis Lieber."

<sup>41</sup> Francis Lieber, *On Civil Liberty and Government*, Philadelphia (1859) page 19.

<sup>42</sup> Adolph von Harnack, *What Is Christianity?* (1900) pages 103, 285 f., 296 f.

state has not only promoted the growth in church population but its vitality as well. When one compares the healthy state of free religion in the United States today with its very sick condition in "religious Europe," it is clear that freedom of religion is to be preferred over any authoritarian or totalitarian religious systems affiliated with the state.

The population of the United States was possibly 4 per cent church-enrolled in 1790; 6.8 per cent in 1800; 15.2 per cent in 1850; 17.3 per cent in 1870; 20.6 per cent in 1880; 34.4 per cent in 1890; 40.8 per cent in 1906; 41.0 per cent in 1916; 46.6 per cent in 1926 and approaching the half-way mark in 1936.<sup>55</sup>

European visitors to the United States from Harriet Martineau and De Tocqueville to Bryce and Myrdal have observed this contrast. Myrdal wrote about 1942:<sup>56</sup>

"Religion continues to characterize American more than other Western nations. . . . For a Scandinavian it is amazing to observe that half of the American people, from all levels of culture and from all classes of society freely affiliate with some church group, which they support economically and where as a rule they take part in the worship services and the usually busy program of the church. It is still more interesting to a Scandinavian to notice that the other half of America has far less aversion to religion than the average Swede. . . . The strong humanitarian element in the American social outlook is admittedly rooted in religion. Americans generally regard their culture as a Christian culture. Radicals and reactionaries alike speak of themselves and their hearers as a Christian people and of their ideals and objectives as Christian ideas. . . . As a rule this is emphasized not as something unusual but as something merely mentioned in passing, just as one does when one refers to something self-evidently important."

The story of education in the British colonies in North America has been narrated in hundreds of books.<sup>57</sup> This summary begins with the year of the Declaration of Independence. In that year Pennsylvania in its new constitution provided that schools should be established and the *state pay part of the salary of the teachers* so as to reduce the student tuition. Before the end of 1776 North Carolina saw the light and in the next year it dawned upon Vermont. Georgia likewise authorized schools in each county. In its Constitution of 1780, Massachusetts put the principle of public education into classical form when it provided that "wisdom and knowledge as well as virtue diffused generally among the body of the people was necessary for the preservation of their rights and liberties." In recognition that democracy and public education are the foci of the American way, New Hampshire in 1784 stated unequivocally in its constitution: "knowledge and learning generally diffused are essential to the preservation of free government."

### Religion Has Prospered Under Religious Clause

When the religious clause of the First Amendment was written into the Federal Constitution, remarks

Joy Elmer Morgan, "the principle of nonsectarian free public schools was established. Under that principle in America, both religion and education have made more progress than in any country—Protestant or Catholic—where the power of the state has been used to collect taxes for the teaching of sectarianism in the public schools."<sup>58</sup>

Since the formal teaching of religion had prevailed in the various types of colonial schools in New England, the Middle Colonies and in the South, it was only natural that the new state system temporarily retained these inherited patterns. But the situation was rapidly changing for the United States after 1791 because of the acceptance of the separation of church and state principle, and also because of the "shift of civilization," the change from dependence upon the energy in the muscle of man to that in the machine, the disappearance of authority and mystery, man's growing control of nature, historical method applied to the Bible, urbanization, industrialization, the tremendous immigration from Europe, the rise of the theory of economic determinism, Christianity's loss of uniqueness as the history of religions uncovered so many of its emphases in the innumerable religions dotting the islands of the seas and being transmitted to the West by the great cultures of the Orient, the application of psychology to the understanding of "regeneration," "original sin" and Christian nurture.<sup>59</sup>

The cry against the "godless" public school was heard as early as 1845. Surveys and polls indicate that public education is increasing in efficiency and in favor of the American people. Over 60 per cent of all Americans desire formal, "structured," sectarian instruction kept out of public school classrooms.<sup>60</sup>

The most significant speech President Grant ever made was at Des Moines, Iowa, in 1875, including:<sup>61</sup>

"The free school is the promoter of that intelligence which is to preserve us. . . . If we are to have another contest in the near future of our national existence I predict that the dividing line will not be Mason and Dixon's but between patriotism and intelligence on the one side and superstition, ambition, and ignorance on the other. The centennial year of our national existence, I believe, is a good time to begin the work of strengthening the foundations of the structure commenced by our patriotic forefathers one hundred years ago at Lexington. Let us all

<sup>55</sup> *Censuses of the United States*, and also *Religious Bodies in the United States* (after 1890).

<sup>56</sup> Martineau, *Society of America*, 3 volumes, (2d ed., London, 1839) 273 ff.; Myrdal, *Contact With America* (1942) quoted by Berggrav, *op. cit.*, page 271. D. S. Muzzey, "What is a Christian Nation?" *The Standard*, New York, October, 1950, page 30 ff.

<sup>57</sup> For those too busy to read the entire story, any good encyclopedia of education, or Moehlman, *School and Church: The American Way* (New York, 1944) pages 24-29.

<sup>58</sup> Morgan, *Scottish Rite News Bulletin*, April, 1951.

<sup>59</sup> *Congress Weekly*, February, 1952, with permission.

<sup>60</sup> *Life*, October 16, 1950, page 14 published the results of a Roper poll showing that Americans valued teachers at 31.3; clergymen, 27.1; and public officials, 19.1 to community; better teachers today, 87.0; federal money to schools, 45.2; against all federal aid, 7.9; religion should be taught in public schools: Yes—38.9, No—63.6.

<sup>61</sup> R. J. Gabel, *Public Funds for Church and Private Schools* (1937) page 523.

labor to add all needful guarantees for the security of free thought, free speech, a free press, pure morals, unfettered religious sentiments, and of equal rights and privileges to all men, irrespective of nationality, color, or religion. Encourage free schools and resolve that not one dollar appropriated for their support shall be appropriated to the support of any sectarian schools. Resolve that either the state or the nation, or both combined, shall support institutions of learning sufficient to afford to every child growing up in the land the opportunity of a good common school education, unmixed with sectarian, pagan, or atheistical dogmas. Leave the matter of religion to the family circle, the church, and the private school supported entirely by private contributions. Keep the church and state forever separate."

Formal religious training apparently does not always succeed in producing character.

If religion can be taught, why do surveys made to determine the effectiveness of the Sunday school show a ratio of .002 between a child's development and what he has learned in Sunday School? Professor G. H. Betts summarized the Hartshorne-May investigation thus: "

"From extensive tests given many children in such traits as cheating and copying in school work, telling lies about their own achievements, taking unfair advantages of others, etc., no relation was found between such conduct and the numbers in Sunday school attendance. Non-attendants made as good a record as regular attendants.

"Character traits investigated by the same men among other groups of children were: kindness and helpfulness, loyalty to their group, generosity, self-control. Here again no relation to Sunday school attendance was found, or so slight a relation as to be negligible.

"The correlation of moral knowledge (knowledge of right and wrong) with Sunday school attendance was slightly negative. In one high-grade neighborhood it was found that those who never attended Sunday school made a better score on the character tests than those who attended somewhat regularly."

### Arguments for Church Support Are Inconsistent

Those who would level the ancient American wall of separation between church and state by the introduction of religious teaching in public schools usually argue: (1) that public school education needs a unifying, cohesive force, (2) that public education is standardizing the American child, and (3) ask where the child is to get his moral and spiritual values.

The first and second of these arguments are mutually contradictory on their face. Moreover, if religious instruction is to serve as a unifying body of knowledge rather than as a divisive force, the state must, of necessity, exercise some supervision over what is taught. It is not "unifying" to have one sect in all sincerity teach that it alone possesses the true faith while another sect, with equal sincerity, equates the first with the forces of evil described in Revelation.

If public education is indeed guilty of standardizing the child, diversity rather than unity of opinion

should be promoted. Such diversity can be far better achieved by assigning to home and church the complete responsibility for the child's religious training.

Men have a way of assuming a necessary interdependence among the many things which they deem good—an assumption that ignores the facts of history, minimizes the breadth and diversity of our cultural heritage and unintentionally postulates a weakness in the good things of life inhibiting their separate survival.

Moral values or standards which are judicially enforceable and which receive general acceptance by society as standards, whether honored in the breach or the observance, are based, not only upon our Western religious tradition but also upon the experience of man in his long upward climb to his present more ethical interpretation of life.

There is a great deal of confused and inaccurate thinking which associates democracy with only Christianity. The fact is that aspects of the ideas of "democracy" and "republic" long antedate the Christian era and go back at least to Greece and Rome where the words originated and where they received practical application in various forms. Our Government, during the administration of George Washington, solemnly declared in a treaty with the Mohammedan power "as the government of the United States of America is not in any sense founded on the Christian religion. . . ." "The fact is that down to the most recent times Christianity, if it can be said to have any preferred political associations (which it should not have), has in Europe been primarily associated with monarchy and other forces of absolutism. The notion that democracy and Christianity have been closely welded is without historical foundation.

Undoubtedly there are spiritual, distinct from moral, values. The question is where the child is to acquire spiritual values. A school-age child spends approximately 12 per cent of his time in school. The advocates of religious instruction in the public schools consider the home and church inadequate to the task of imparting such values to a child in the 88 per cent of the child's time at their disposal, or, if we assume the child sleeps one-third of his time, 54 plus per cent.

Now, then, if the state has an interest in promoting or imparting spiritual values, and if spiritual values require a theological basis, then spiritual values depend upon a correct theology of which the state must be the judge. Hence the state must curtail the free exercise of religion, if it is not to promote error and unwholesome divisions among the people. For these reasons Plato recommended the complete prohibition of private religious rites."

<sup>43</sup> E. L. Thorndike, "Your City," particularly pages 96-99, 160 ff.; and Bagley, Healy and Bronner, Carl A. Murchison, Horace M. Kallen "Religious Education in Democratic Society," *Jewish Education* (April, 1941) pages 5-14, and Moehlman, *School and Church: The American Way*, c. IX.

<sup>44</sup> 8 Stat. 154, 155.

<sup>45</sup> Laws X, 908-911.

If spiritual values do not require a theological basis, secular instruction is sufficient to impart them without teaching formal structural religion as such.

Any injection of such formal or structural religious instruction into the public schools, or any public support of private religious instruction, is to a degree an establishment of religion, requires some persons to support the propagation of religious views they do not espouse, and tends logically and inevitably, no matter how imperceptibly, to limitation on the free exercise of religion.

As recently stated in the *American Bar Association Journal*: "By a careful rendering unto Caesar the things that are Caesar's and unto God the things that are God's, the American people, aided by a common language and continuous intermingling at school,

business and social levels, have been able to forge Protestants, Catholics, Jews, atheists and agnostics into a homogeneous nation, creative and vital in its heterogeneity."<sup>46</sup>

The First Amendment was intended by the framers of the Constitution to prevent initial as well as subsequent encroachment on religious liberty. The Supreme Court has unanimously and consistently so construed it.

In the United States religion is the province of the individual conscience, the home and the church. *McCullum v. Board of Education*, stands as one of the great landmark cases in the cause of human liberty.

<sup>46</sup> 37 A.B.A.J. 449; June, 1951.

## Should Christ Be Allowed in the Classroom?

By FRED BODSWORTH

**More Canadian children than ever before are receiving religious instruction in their public schools while parents, churches and school boards wage a bitter double-barreled debate: Can education really be education if it neglects spiritual matters? But can anything as personal as religion be taught simultaneously to pupils of different creeds?**

**R**ELIGION, once as rigidly excluded as sex from the average Canadian classroom, is returning to our public schools amid the rumblings of a debate as old as the nation and as fundamental as Christianity itself.

One of the traditional principles on which Canada's public-school system was built—the rigid separation of church and state in educational affairs—has been modified until today only four Canadian provinces still have laws which unconditionally forbid religious instruction in publicly supported schools. Yet the issue of religion in schools, on which even people of like religious beliefs often find it impossible to agree, has lost none of its power to stir Canadian teachers, parents and clergymen to bitter disagreement.

Roman Catholics are largely outside the controversy, for in five of Canada's ten provinces they operate their own separate schools in which religion

can be stressed without denominational disagreement. But close to seventy percent of Canadian elementary students attend public nondenominational schools in which the problem of how much religion to teach and how to teach it becomes highly controversial because classes are of mixed faiths.

Many parents and educators feel that religious education for all children is an urgent need in a modern world that seems to have lost sight of the moral and spiritual values which formed the groundwork of our civilization. Thousands of members of minority religious groups fight it violently because they fear their children will be subjected to the propaganda of rival faiths. Others oppose it arguing that when a government prescribes religious instruction it infringes on rights which belong exclusively to the individual and his church. State-directed religion in public schools, they say, amounts to partial abolition of democracy's traditional freedom of religion. Furthermore, they argue that any course in religion which can be taught in a class of mixed faiths without offending some of those faiths must be a watered-down, nondenominational religion which falls short of being a satisfactory religion at all.

The controversy is as old as formal education itself. Bible teaching and religion naturally assumed an important place in Canada's pioneer schools. Canadian pioneers were God-fearing people and most settlements were composed of members holding similar

religious beliefs, so there were few grounds for disagreement. But as population grew, so did the number of disagreeing religious factions. With Confederation, education became a provincial responsibility and school courses had to be standardized on a provincial basis. Because of the growth of religious denominationalism—each denomination with its own interpretation of Scripture—it became increasingly difficult to agree on religious instruction that would satisfy all. Amid bickering of sect against sect educational authorities had to keep chopping down the religious content of the school courses. Eventually, well before the turn of the century, religion was banished entirely from the public-school courses of most provinces and the separation of church and state in the educational field became a widely defended policy.

By the 1920's religious instruction in public schools was forbidden by law in many provinces. In others optional clauses in the school acts permitted religious education if the local boards desired it—and very few of them did. Even religious exercises—the opening or closing of school with prayers, Bible reading or hymns—were barred by a great many school boards. In British Columbia it was debated whether the National Anthem should be sung in schools, since it is actually a prayer.

Around 1930 the wisdom of complete removal of religion from the schools began to be questioned by many people who had once favored the removal. Religion slowly began returning to school courses. During World War Two, the trend gained momentum rapidly. The juvenile delinquency of the war years and the fact of the war itself were regarded as evidence that modern education had become too materialistic and secular, that in barring religion we were also barring the basis of moral and ethical training.

Religious exercises, which need to be carefully distinguished from religious instruction, are now a normal opening and closing feature of practically all Canadian schools. The Lord's Prayer and daily Bible readings are demanded by the school acts of six provinces. In the other four (Nova Scotia, New Brunswick, Manitoba and Saskatchewan) religious exercises are permitted if desired locally, and few school areas now ban the practice. Manitoba, Alberta and British Columbia guard against controversial entanglements with the stipulation that religious exercises be carried out "without explanation or comment." Their policy: we'll read the Bible to the children but parents or their church can tell them what it means.

The four provinces which still exclude all religious instruction from the schools are Prince Edward Island, Nova Scotia, New Brunswick and British Columbia. But in two of these (Nova Scotia and Brit-

ish Columbia) the stand against religion in schools is weakening. Nova Scotia now permits its schools to be used for religious classes by teachers or clergymen where parents request it—but only after school hours. And a government committee is working out a plan of religious education which, if accepted, may become obligatory in Nova Scotia schools. The official British Columbia attitude toward religion in schools is still pretty much a hands-off policy, even to the point of ruling that clergymen are ineligible as teachers or school trustees. But British Columbia has approved an optional high-school course in Bible study, and students passing this course are awarded credits toward their high-school graduation. However, the course must be taken outside school and after school hours.

The Protestant schools of Quebec, which are left to operate more or less within a denominational framework because of the extensive development of Roman Catholic separate schools in that province, have had religious courses for years but any pupil can be excused at the request of parents. Ontario brought in an officially prescribed course of religious education for its public schools in 1944, although schools or individual pupils are granted exemptions when school boards or parents request it.

Newfoundland province, like the Roman Catholics, is outside the religion-in-schools controversy because most schools there are denominational schools, operated by the Church of England, Roman Catholic Church, United Church, Salvation Army or Seventh-day Adventists. Only thirty-three of the province's twelve-hundred-odd schools are nondenominational. Usually the district clergyman is chairman of the local school board and since the character and amount of religious instruction is left to the local boards there is considerable religious education of a denominational nature.

In Manitoba, Saskatchewan and Alberta religious education is optional under permissive legislation which passes the buck to local school boards. These provinces say in effect: "Call in a clergyman and teach religion if you want to." Ontario's plan with its provisions for exemptions can be interpreted as a policy of: "Here it is, you must teach it unless you have permission not to."

Ontario has published a series of teachers' guide books, one for each of the first six grades, which set down lesson by lesson a recommended course for teachers to follow. The principle—and the content of the textbooks themselves—sparked the first large-scale Canadian battle over the religion-in-schools issue since religion's temporary banishment from schools more than half a century ago. Letters-to-editor columns bristled with opinions for and against. Hun-

dreds of ministers and rabbis preached sermons on the question. Jews criticized the texts because they contained too much Christian doctrine; many Protestants, especially Presbyterians, criticized them because there was not enough Christian doctrine. Organizations sprang up, passed resolutions, circulated petitions and inserted large advertisements in newspapers with such contentious headings as Religious Freedom at Stake and Religious Freedom Upheld.

Meanwhile an Ontario royal commission had begun a study of the province's whole educational system in 1945. Mr. Justice Hope and his fellow commissioners were deluged with briefs and representations decrying the religious education plan. In December 1950 the Hope report (nine hundred and thirty-three pages) was made public. It called Ontario's religious education plan "eminently satisfactory," recommended not only that it be continued but that it be broadened to include secondary schools and junior colleges.

Religion-in-schools opponents had apparently taken a trouncing. But they have by no means been silenced.

What, fundamentally, is the fighting all about? What does religion in schools really mean in terms of what children are taught? The Ontario course is typical of the simplified, nondoctrinal courses on Bible stories and Christian living that are today being adopted in Britain and many U.S. states.

At Pape Avenue School in Toronto, Principal Clare Fallis and teachers from four different grades—all of them strong believers in the practical value of religious education—gave me a digest on the Ontario course, discussed some typical lessons for the different grade levels and commented on the effect of religious education on children.

"Children of the first two or three grades cannot understand figurative language and abstract ideas," Mary MacNabb, a Grade One teacher, pointed out. "Christ is introduced to them as their loving Friend. The lessons endeavor to make His human personality real and living to the child. Lessons on His divinity have to wait until later."

The Grade One course consists of simple Bible, nature and harvest stories which dramatize in child language the harvest gifts of God and teach the virtue of helping parents and neighbors. Many of the lessons have no Biblical connection. God is introduced through nature stories of bursting buds, baby chicks and tadpoles. The problem of racial prejudice gets attention in missionary stories of children in other lands.

Lesson One is a simple tale of how the Heavenly Father, the farmer, the miller and the baker team up to provide our bread. By Lesson Twenty-five, pupils are introduced to the Easter story of the resurrection in an account of Mary's meeting with Jesus in the garden. The Grade One children are told with no elaboration that "Jesus had risen from the dead." The emphasis is on Mary's joy at meeting Jesus again;



no attempt is made to explain the story's religious significance. The guide book instructs teachers: "We are laying a foundation for a later understanding of the deep spiritual meaning underlying the resurrection."

The Grade Two course introduces the concept of God as Creator and fills in more details of the life of Christ with stories of His babyhood and boyhood. Again nature stories are used to develop the child's understanding of God.

The first two lessons deal with the Biblical story of creation. Teachers are warned: "The teacher should be prepared for the question 'Who made God?' and simply state that God has always existed."

The creation story as offered to the Grade Two pupils of Ontario is a cautious blending of the story of Genesis with modern geological and astronomical fact. Genesis is accompanied by the explanation that God provided day and night by making the earth round and having it move in a path which turned it daily from sunlight to darkness. The story reverts to Genesis with a few sentences on God's creation of the moon and stars and His preparation for His children by the creation of dry land, seas and mountains. Then the account is embellished with some fundamentals of modern geology: "Deep valleys were carved out by swiftly running rivers . . . Sunlight and wind and rain and ice crumbled rocks to dust, making rich soil." Then a bit more astronomy: "The world rolled on its path, sometimes feeling the sun's warmth very much, sometimes less, and so came seasons to the world . . . Frost and snow, mist and sunshine—God gave them all to make the world beautiful for His children."

The Genesis six-day timetable of creation is not mentioned. When did creation occur? "So long ago that nobody knows when. There was no round world, nor sun, nor moon, nor any living thing. But there was God. Before the very beginning God was there."

By Lesson Three the story of creation is ended. It consists of a modern non-Biblical story of a small child's garden to show that God's creative work still goes on. Nowhere in Ontario's prescribed course of religious education do Adam and Eve, the forbidden fruit or the doctrine of original sin receive a mention.

The Bible provides very little information on the childhood of Jesus. But the Grade Two course goes into detailed accounts of Jesus' boyhood and home life which are frankly described to the teachers as fictional stories based on historical knowledge of how Jewish children of His time lived. Several stories of His playmates, picnics and schooldays, though without Biblical basis, are provided to picture His early life in terms of everyday happenings that public-



school children of today will understand. Late in the Grade Two course the first reference to the Old Testament appears, but continuity and the link with Jesus is retained by treating them as lessons in Jesus' school life. The lives of Abraham, Isaac and Jacob are described as stories told to Jesus, and Jesus, as the fascinated listener, remains the central figure.

In the Grade Three course God is again introduced through the medium of stories about growth and harvest. Teachers are warned: "With town children there is a danger that they will think that everything begins in a tin. Certainly they will find it harder to go farther back than the store. These stories should help them to a better understanding of God's part in providing the food we eat." To the dismay of some ministers the teachers are advised to use labels from tins of food to illustrate a lesson on foods from other lands. One minister angrily commented: "Are we supposed to believe that religion can be taught from a pork and beans label?"

The Grade Three course gets on a slightly more theological level by describing Christ in the Christmas story as "the Son of God" and "God's great Gift to us." At Easter, however, the teachers are advised: "To a later period in the life of the pupil must be left the detailed story of the trial, death and resurrection of our Lord, since children of Grade Three are not ready for the complete story."

Grade Four receives eighteen lessons on Christ's role as teacher and healer, then a series on how the apostles carried on Christ's work after His ascension. One lesson is devoted to the story of the upper room in which Christ's simple and uneducated disciples received the power of the Holy Ghost which enabled them to become preachers and spread the gospel of Christ. The Bible puts considerable emphasis on the fact that the power of the Holy Ghost enabled the disciples to preach in whatever tongue their listeners happened to use, so that the spread of the gospel "to the uttermost parts of the earth" could be accomplished in spite of language barriers. But pupils learn merely that "power from God suddenly came upon the friends of Jesus . . . The slow of speech were talking freely, and timid ones had lost all sense of fear . . ." The gift of tongues is nowhere alluded to.

The Grade Four course ends with a series to show that Christ's followers are still carrying on the work begun by the disciples. There are lessons on Dr. Barnardo, the creator of Britain's Barnardo homes for homeless children, on Dr. Grenfell and his Labrador missions, and on Florence Nightingale.

The Grade Five course is devoted entirely to a study of the Old Testament. "The hand of God in

Hebrew history is shown preparing the way for the coming of His Son," states the introduction. Teachers are warned against stressing the Old Testament concept of a harsh and inconsistent God. "We need not dwell in detail on the plagues of Egypt, and we must guard against showing a God who hardens Pharaoh's heart and then punishes him ruthlessly because he would not relent towards the Hebrews." In Grade Five, for the first time, it is recommended that pupils read the Bible passages connected with each lesson.

Grade Six returns to the New Testament and a detailed study of the life of Christ. But here, still, teachers are warned that children are not yet mentally developed to the point where they can understand Christianity's fundamental doctrine—that Christ was a divine intervention in mankind's history as a revelation in human form of the nature of God. "It is hoped," the guide book says, "that through the simplified accounts in this guide, some gleam of this great and glorious fact will dawn upon them and be the foundation for a more advanced study in the senior grades."

Christ's crucifixion is covered in two paragraphs. The teacher's guide says: "There are special difficulties in handling this lesson, in view of the sacredness of the subject, its profound significance, and the danger of blunting the children's appreciation by too much detail, and of using adult theological phrases that are meaningless to pupils of this age."

Ontario has not yet published religious textbooks for the last two grades of public school—Seven and Eight—and there is no detailed course of study for these grades. It is recommended that teachers in these grades link together the disconnected stories of the earlier grades into a complete historical picture, and that the gospels be studied directly from the Bible with emphasis on their ethical implications. Because of pressure of other subjects religious education gets less attention in these grades.

What do the children, oblivious to all the argument among their elders, think of religious education?

"They love it!" declared Victoria Mullan, a teacher at Wilkinson School in Toronto. "If you tell them there is not enough time for a Bible lesson today a groan fills the classroom. From my experience I would say the Bible study has become their favorite school subject. The more dramatic stories like Paul's shipwreck and David and Goliath hold them spellbound."

Is it having any effect on the moral development of children?

"I'm sure it is," Principal Clare Fallis of Pape Avenue School told me. As he spoke he reached into a drawer of his desk and drew out several articles—a boy's pocket watch, jackknife, a ten-dollar bill, a two-dollar bill. "These are all articles that have been found and turned in by pupils in the last week or two," he said.

"The rate at which articles found by pupils are turned in voluntarily is a gauge of pupil honesty that every principal has," Fallis said. "In recent years the practice has become much commoner among public-school children. I give religious education a lot of the credit."

But Ontario's course of religious education has been bitterly condemned as a heretical falsification and distortion of the Bible by many ministers.

"It should be called a course on how to win friends and influence people, it's not a course on religion," Dr. A. Neil Miller, a leading Presbyterian, charges. "It uses Bible stories to illustrate a few simple ideals of practical living, but the Bible's great and basic truths are ignored."

Most Protestant ministers have approved of the course as a simplified introduction to the Bible and religious thought but some have bitterly criticized its stress on practical living and its almost complete neglect of theology and Christian doctrine.

One committee of ministers who reviewed the textbooks concluded: "The errors and misrepresentations are embedded in the very structure of the books, not merely in details. No revision will suffice. A curriculum so deeply committed to a falsifying of God's Word cannot be revised. It can only be abolished."

Their biggest complaint: "The bovine equanimity with which ordinary drawing-room deportment is palmed off as the Christian faith is little short of alarming . . . God and Jesus are completely humanized . . . There is no suggestion that the profound religious purport of the Bible might be that God sent His only begotten Son into the world to save sinners. No suggestion whatever that Jesus is the Saviour. No hint that the theme of the Bible is man's salvation from sin, death, the devil and the world by God's free grace in Jesus Christ alone. And of course no allusion to the resurrection of the dead, the second coming of our Lord and the last judgment."

Some ministers contend that the moralizing tendency of the course preaches a doctrine of salvation by good living instead of the Christian doctrine of salvation through faith in Christ. Hell is mentioned nowhere, heaven is represented merely as the home of God. "Nature study is substituted for Bible study, nature worship takes the place of the worship of God."

In Ontario, the ancient dispute over religion in the schools comes into the clearest focus because the course of study is set forth more clearly than in most other provinces. But the dispute is by no means confined to Ontario. Minority groups in every province contend it is the parents'—not the state's—duty to teach a child the religion of his family's choice.

The minority who find it most difficult to accept religion in the schools are the Jews, who do not recognize the divinity of Christ or accept the New Testament as Holy Scripture.

"It approaches perilously close to totalitarian

methods," says Rabbi Abraham L. Feinberg, of Holy Blossom Temple, Toronto, spiritual leader of Canada's largest Reform Hebrew congregation and an outspoken campaigner against religious teaching in public schools. "The function of the school is to bring children together from diverse backgrounds and to teach them to work and play together regardless of political or religious differences. In the public schools all creeds and origins should meet on common ground."

Rabbi Feinberg says provisions which permit parents to have their children withdrawn from classes in religion subject the children to the embarrassment, reproach and psychological hazard of being set apart as different from the majority, a sort of "inferior class." The Rabbi said that occasionally such children have been obliged to wait in halls and then conspicuously file back into classrooms when the religious study ends.

"The fact that many Jewish children of Ontario attend the religion courses usually means an act of resignation, a choice of what the parents think is the less injurious of two evils. Rather than make their youngsters advertise their religious differences many Jewish mothers simply let them remain in class."

One small Toronto Jewish girl told her mother: "We Jews are bad. We killed Christ. The teacher read about it from a book."

What about the teachers? "Teachers are only human," Dr. W. E. Blatz, psychologist and director of the Institute of Child Study, University of Toronto, says. "They are of many different faiths and it is only natural for their personal religious views to enter into their teaching of the Scriptures. To expose children to the varied interpretations of teachers of different faiths can lead only to mental confusion."

A greater hazard is the teacher with strong religious views who deliberately takes advantage of the religious study period to advance the propaganda of his own faith, to convert minorities and ridicule other religions.

Within a year after Ontario instituted its religion course a teacher of the Cochrane area of northern Ontario, a member of the Jehovah's Witnesses, was dismissed from two different schools for teaching the specific tenets of her own faith to all pupils in her class.

Critics claim that a course in religion that doesn't go into denominational differences and doctrine is as incomplete and meaningless as a course of automotive mechanics in which trade names like Ford and Buick are taboo. Such a course would turn out mechanics who know only a sort of hybrid, composite

automobile that doesn't exist. A nondenominational course in religion does the same thing, its critics say.

Of the Ontario plan, Dr. Arthur C. Cochrane, then a Presbyterian minister of Port Credit, Ont., now a professor of theology at the University of Dubuque, Iowa, said in 1945: "The idea that the state can teach the Bible without doctrine implies that the doctrines of the church are superimposed upon the Bible; that they are not Bible teaching. The church must repudiate this implication for the sake of her very existence."

The Canadian Jewish Congress said in its brief on religious education to Ontario's Hope commission: "In a futile attempt to fashion some form of religious education (which would satisfy all) there has been an unfortunate tendency to seek for a 'lowest common denominator' into which all religious denominations may be squeezed. This will ultimately rob religion of its personal and intimate emotional content."

To offend no one, the critics say, a religions course must be reduced to such vagueness that it can satisfy no one.

Finally, the case against religious education is supported by a few psychologists and others who argue that religion and Bible knowledge is not the automatic cure-all for immorality and antisocial behavior that its defenders claim.

Dr. Blatz notes the claim that conventional religious instruction appears to have little to do with morality. Dr. George Rex Mursall, chief psychologist of the Ohio Department of Welfare, compared groups of boys in Ohio reform schools with law-abiding children outside. He found that inmates of the reformatories had previously received as much religious training as those outside. He concluded: "It seems safe to state that there is no significant relation between religious training and delinquent behavior."

Prof. Hightower, of the University of Iowa, tested three thousand children for lying and cheating and concluded: "There appears to be no relationship of any consequence between Biblical information and the different phases of conduct."

The case for religion in schools is presented with equal vigor by its adherents.

Their argument is the growing conviction that there is something wrong with the way we have been shaping our youth. The increase in divorces, periodic outbreaks of juvenile delinquency, vandalism, lack of sportsmanship have all been cited as evidence that our educational system has been failing to inculcate the basic virtues of honesty, fair play, tolerance and unselfishness. The source and support of these virtues, the defenders of religious education argue, is the Christian religion. Ontario's Hope report on educa-

tion says: "The ideals from which our standards of conduct are derived find their origin in religion. A spiritual faith based on absolute values is the rock upon which character and conduct are built."

About fifty percent of Canadian children are not enrolled in any Sunday schools. Where the public schools are excluding religion this great body of youth has been said to be growing up into "religious illiterates" completely ignorant of the Bible, church history and the fundamental role that Christianity has played in molding the culture and democratic institutions of our Western civilization. Religion-in-schools advocates claim that the influence of Greece and Rome on the development of Western culture and government has been disproportionately stressed while the influence of Palestine's Judaism and Christianity has been largely ignored in an effort to avoid religious controversy.

The Inter-Church Committee on Weekday Religious Education, a Protestant organization active since the Thirties in promoting religion in public schools, has contended that in banning religion from schools the schools are not merely remaining neutral, but are exerting a powerful though unintentional influence against religion. The exclusion of religion and the emphasis on the sciences, history and mathematics convey the suggestion to children that religion is unimportant and irrelevant in modern life.

Yet the world crisis today is basically a battle of faiths. The real strength of Communism is not its bullets and bombs, it is the militant, fanatical faith it inspires in its followers. And only a stronger faith of our own will defeat it, a faith in the value of individual freedom and democracy, the Western heritage which has its roots in Judaism, Christianity and the Bible. By leaving religion out of schools, it is argued, we have been depriving youth of the basic enduring faith and loyalty that is the foundation of our defense against the freedom-sapping tide of totalitarianism.

As for the fears of religious minorities that religion in schools will inevitably mean the teaching to many children of denominational doctrines in which they don't believe, advocates of religious education argue that the threat to minority rights is exaggerated but where the problem does arise the desires of the majority should rule. Canada is by tradition a Christian country. Where Roman Catholics are numerous their rights are protected by separate schools. Canadian Protestant churches have claimed, in the main, that minorities have no right to deprive the majority of the privilege of teaching the religious traditions in which they believe.

This is the case for and against religion in schools.

Is it the church's answer to religious illiteracy and the growing acceptance of materialistic philosophies? Is it democracy's answer to the menace of Communism?



Or is it an undemocratic interference with personal liberty that will open up old sores and turn Canada into a bickering Balkans of religious factions?

We may soon know. For in the whole vast and bewildering chaos of idea and arguments there is only one certainty above dispute. It is the simple fact that, in spite of the seemingly irreconcilable nature of the controversy, religion is coming back to the public schools of Canada, Britain and the U.S.

## Religious Liberty

**R**ELIGIOUS LIBERTY IS A LIBERTY to choose our own religion, to worship God according to our own consciences, according to the best light we have. Every man living, as a man, has a right to this, as he is a rational creature. The Creator gave him this right, when He endowed him with understanding: and every man must judge for himself, because every man must give an account of himself to God. Consequently, this is an indefeasable right; it is inseparable from humanity; and God never gave authority to any man, or number of men, to deprive any child of man thereof under any color or pretense whatever. What an amazing thing it is, then, that the governing power of almost every nation under heaven should take upon them, in all ages, to rob all under this power of this liberty! Yea, should take upon them at this day so to do! To force rational creatures into their own religion! Would one think it possible, that the most sensible people in the world should say to their fellow creatures 'either be of my religion, or I will take away your food, and you and your wife and children shall starve; if that will not convince you, I will fetter your hands and feet, and throw you into a dungeon; and if still you will not see as I see, I will burn you alive.' It would not be altogether so astonishing, if this were the manner of American savages. But what shall we say, if numberless instances of it have occurred in the politest nations of Europe? Have not instances of the kind been seen in Britain? Have not England and Scotland seen the horrid fires? Have not the flames burned the flesh of heretics, shown in London as in Paris and Lisbon."—*THE ADVOCATE YORK*, Dec. 14, 1833.

## Breach in the Wall?

**I**N 1947 THE UNITED STATES SUPREME COURT in the New Jersey case of *Everson vs. Board of Education* upheld the Constitutionality of a local law which provided for the reimbursement of children's transportation expenses to a Catholic parochial school.

To many stout exponents of the separation of church and state in education, as in other phases of American life, this close decision was regarded as a

dangerous "opening wedge" which well might lead to a breach of the wall of separation. For if taxpayers can be required to pay the transportation expenses of children attending church schools, there is certainly some connection between the operation of church schools and the political powers of the state.

Fears of an opening wedge were abated somewhat, however, when, about two years ago the Supreme Court by a smashing majority of 8 to 1, decided that Mrs. Vashti McCollum was right in her insistence that the system of teaching religion in the public schools of Champaign, Ill., was unconstitutional. In Champaign, various Catholic, Protestant and Jewish churches provided teachers of their own to conduct classes during a specially designated period in the elementary and high schools.

The decision of high court in the McCollum case ended the teaching of Bible in the high schools of Winston-Salem and in many other systems over the country. But in New York and various other states a system of "released time" instruction provided at points off the school grounds has been in operation for some time. The New York law providing for such released time instruction recently came under legal attack and the case was carried to the Supreme Court. This week the court held in a 6-3 decision against which Justices Black, Jackson and Frankfurter dissented, that the New York released time system is constitutional. This ruling in effect sanctions released-time programs in many states involving approximately 2,000,000 pupils.

Yet, as Mrs. Agnes Meyer, one of the country's outstanding fighters for better schools, pointed out in a recent issue of *Atlantic*, the off-grounds released-time programs involve the use of school time, for which taxpayers pay, in the religious instruction of children, many of whom are compelled by law to attend the public schools. By the logic of necessity it disrupts the normal schedules and curricula, creates problems in discipline among pupils released during the school day from the supervision of their regular teachers, and leads to truancy in many instances, both from school and the Bible classes.

But with court approval these courses may multiply. This possibility raises anew the inquiry whether Mrs. Meyer is not right when she insists that the public schools of the nation should not be used either directly or indirectly for religious educational purposes. The school, she insists, needs all its time to "improve the education of our children and to center upon the task of developing the morality and strength of character that are ideals common to men of all religious faiths." This task, she argues is made difficult when churches force the schools to adopt programs that generate divisiveness among pupils.

James Madison held that religion could not by law be made the concern of the commonwealth. Jefferson declared it was sinful and tyrannical to compel one

to contribute money "for the propagation of opinions he disbelieves, or abhors." The latest decision of the Supreme Court on the church-school question is bound further to confuse this issue and cause many Ameri-

cans to wonder whether the traditional wall of separation between church and state hasn't been breached.—Winston-Salem, N.C., *Journal*, May 2, 1952. Reprinted by permission.

## EDITORIALS

### Colorado Court Enforces Separation of Church and State in Sterling School

THE STERLING (COLORADO) *Advocate* of August 29, 1952, carried the following order issued by Judge George C. Twombly. This was given after Judge Twombly had reached his decision that St. Peter's Catholic parochial school was operating in violation of the United States and Colorado constitutions:

"IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

"1. That Frank Hoeffler, Edward J. Lock, and J. H. Bornhoft, as officers, directors and members of the School Board of School District No. 43, Logan County, Colo.; J. Burton Vasche, commissioner of education of the State of Colorado; Janet E. Graubeger, county superintendent of schools of Logan County, Colo.; W. F. Alexander, treasurer of the county of Logan, State of Colorado; and Sister Mary Georgia and Sister Mary Bertram are hereby permanently restrained and enjoined from permitting, conducting or maintaining a tax-supported school in a building maintained and used as a part of a religious unit or where said building, or portion thereof, is wholly or partially under the control or use of any church or ecclesiastical persons, or used partially or wholly as a parochial school:

"And from renting or acquiring use in any building or space in any building used as a public school or public school room, when said building does not remain under the absolute control of the state or one of its sub-divisions, or when such building, its location, or its use, is of a nature to exert a sectarian influence;

"That such injunction applies specifically to the building now being used as a school building in School District 43, Logan County, Colo., commonly known as St. Peter's District 43 School.

"2. That J. Burton Vasche, commissioner of education of Colorado; Janet E. Graubeger, county superintendent of schools; and the defendants herein who are members of the board of directors of St.

Peter's School District 43 are hereby enjoined from appropriating, allocating, or apportioning public monies to the St. Peter's District 43 School so long as the same is maintained and operated in violation of this judgment;

"And the said county treasurer is permanently enjoined from accepting and cashing warrants drawn on the funds of said district in his hands for the maintenance and operation of such school, and the payment of the salaries of the defendant sisters so long as the same is operated in violation of this judgment.

"3. That the defendants, Sister Mary Georgia and Sister Mary Bertram, are permanently enjoined while serving as public school teachers from wearing their ecclesiastical garb and giving sectarian religious instruction to any child or children delivered to them as public school children at St. Peter's District 43 School, Logan County, Colorado."

Judge Twombly stayed the execution of the judgment for sixty days so that the parties to the suit could have time to prepare for an appeal that was expected to be made to the Colorado Supreme Court. It is refreshing always to find jurists who see clearly what is involved in the paying of public funds to religious organizations for the operation of their work.

H. H. V.

### Sunday Law Enforcement in Alabama and Georgia

BLUE LAWS ARE CERTAIN to flare up intermittently as long as they are on the statute books. And as long as a spark exists, their smoldering embers are sure to be fanned into a blaze by some breeze. When they blaze they burn somebody rather than something. Not only are they incendiary in nature, they are inconsistent and usually fail to accomplish the thing for which they are intended.

In two adjoining States, Alabama and Georgia, Sunday law enforcement is now in progress. According to the Associated Press the police of Mobile, Alabama, made fifty-three arrests on three Sundays in their recent "crackdown." On the third Sunday

only six arrests were made, which included three grocers and two bakers. The charges were preferred on a violation of an old city ordinance as well as a State statute.

In the Alabama Declaration of Rights, Article I, section 3, the residents of the State are assured "that the civil rights, privileges, and capacities of any citizen shall not be in any manner affected by his religious principles." If the religious principles of a grocer or a baker allow him to operate his place of business on Sunday he discovers that his civil rights and privileges are affected. He is subject to arrest and at his trial he may be fined or imprisoned or his sentence may include both. He learns that the Sunday law cancels certain of his constitutional rights on Sunday. The law in Georgia is after the same pattern. In Article I, section 1, paragraph 2, the following will be found: "Protection to person or property is the paramount duty of government and shall be impartial and complete." In paragraph 13 is given the additional assurance that "no inhabitant of this state shall be molested in person or property . . . on account of his religious opinions."

Here again if the religious opinion of the shopkeeper allows him to operate his establishment on Sunday he finds that some of his constitutional guarantees are canceled by blue laws.

Sunday laws are notorious for their inconsistency. Those of the two States mentioned are no exception. In Mobile, Alabama, where an enforcement drive is on, it is legal on Sunday to sell gas, a commodity for pleasure, but illegal to sell bread, the staff of life. The constitutional assurances of nonmolestation are effective every day, except Sunday. This paradox is difficult to explain, but may be the result of the persistent attempt to conceal the religious nature of Sunday legislation behind a civil mask.

But when the terms "Sunday," "Sabbath," and "Lord's Day" are used interchangeably as they are in the Georgia Bill of Rights, the religious intent of the law is self-evident. Then the violation of law committed by the offender is not the selling of bread instead of gasoline on Sunday; it is not the selling of a wrong commodity, but the desecration of a holy day. The supreme court of Georgia said that the purpose of the law is to keep holy the Sabbath day of "Divine injunction." The highest court of Alabama made a similar acknowledgment when they said that the design of the legislature in the passage of the act was to advance the interest of religion by prohibiting all persons from engaging in their common and ordinary business or employment on Sunday.

Those who drafted the Federal Constitution had an abundance of evidence from the past centuries to prove that the cause of religion cannot be abetted by legislation; that true Christianity cannot be propagated by police power; that when the church and the state are united, intolerance and persecution will

result. To prevent that very thing the First and Fourteenth Amendments were built into our national document. There were present at that very time those who opposed the principles of separation of church and state and tried to prevent their becoming embodied in the Constitution. That opposition has continued through the years and has been instrumental in implementing Sunday legislation in numerous States.

As long as these religious laws are kept on the statute books they will perturb. Since true religious devotion and respect for the Sabbath day can never be realized by legislation, it is easy to understand why blue laws are notoriously inconsistent and troublesome.

A. H. R.

## The National Blood Program

**LIBERTY** IS GLAD to lend its voice to encourage citizens to respond to the plea of those who sponsor the National Blood Program. The President of the United States, the Secretary of Defense, the President of the American National Red Cross, and the Administrator of the Federal Civil Defense Administration have all pleaded that the supply of this life-preserving element be maintained, not only for the men and women in our fighting forces, but to meet emergencies in the civilian population. It would be difficult to overestimate the good accomplished by the gifts that have been made. In the late world war, and in the conflict now going on in Korea, undoubtedly thousands of our service folk have had their lives saved by the prompt administration of whole blood and blood plasma.

It is almost trite to say that if the flower of our young manhood and womanhood are willing to give their lives in actual combat, the civilians who remain at home in comfort, far away from war's dangers, ought to be quick to give their blood so that every need for its life-saving benefits can be met. Somewhere it has been said that "they also serve who only stand and wait." This, we think, ought to be paraphrased, "They also serve who give their blood for others."

H. H. V.

## Blue Laws Enforced in Georgia

**THE Atlanta Journal** OF OCTOBER 22 carried the following interesting bit of information:

"DeKalb County can expect all but a few necessary service businesses to close down on Sunday if a 'blue law' recommendation of the county's grand jury is carried out.

"In a special presentment disclosed Wednesday, the jurors urged strict enforcement of the state law against doing business on the 'Lord's Day.'

"And they meant all business.

"Clarence L. Peeler, Jr., assistant solicitor of DeKalb Superior Court, said the jury emphasized that its recommendation covered all phases of the law.

"Observers saw the action as a move to make the law apply to all merchants rather than favor a few who remain open on a technicality.

"The blue law has been enforced recently in Atlanta against Sunday sale of groceries. But the DeKalb action would involve drug stores, theaters, sports activities and all other Sunday business operations except the few that are excluded under the law.

"These include restaurants, filling stations and drug sales in drug stores.

"The presentment, returned by the September session of the Grand Jury, urged that 'the chief of the DeKalb County police be required to take such measures as are necessary to enforce the law.'

"Police Chief Hoyt Sutton said Wednesday he had not received a copy of the presentment but had discussed it with the jury. He said he would wait until given instructions before commenting on action to be taken.

"Observers expected a short period of grace to be given merchants to arrange for Sunday closings, and then strict enforcement of the law.

"Decatur's two movie theaters already close on Sunday, but several drive-in theaters in the county have Sabbath showings.

"Drugstores in Decatur generally observe a city ordinance ordering all business to cease from 11 A.M. to 12:30 P.M. during church services. County druggists outside Decatur operate much as in Atlanta.

"One Decatur druggist said he did not think the action would hurt business, as long as it hit all merchants. Customers would suffer most, he thought, from the inconvenience of the closings.

"The state law (Code Section 26-6905), cited by the Grand Jury, states that 'any person who shall pursue his business or the work of his ordinary calling on the Lord's Day, works of necessity or charity only excepted, shall be guilty of a misdemeanor.'

"Private club barber shops, druggists who made 'a single sale of soda water and lemonade' and other firms have been prosecuted under the statute.

"C. A. Murphey, Decatur businessman, is the foreman of the Grand Jury. The presentment was made to Judges Clarence Vaughn and Frank Guess of DeKalb Superior Court."

The intent of the grand jurors is evidently "to make the law apply to all merchants rather than favor a few who remain open on a technicality."

No reasonable man can object to that. If the law is on the statute books, no partiality should be shown in its enforcement. The whole question, however, involves the right of a State to either make or enforce

religious laws. Sunday is a religious day held in high esteem by millions of Christians, but any Sunday law is still out of harmony with that provision of the Constitution which forbids Congress to make a law respecting an establishment of religion. A Sunday law gives governmental approval to a specific day as religious time, and then commands its observance under penalty of fine or imprisonment. All the lessons of history are forgotten by those who think that religio-political laws, or the enforcement of them by civil authorities, can do one little bit to change men's minds or purify and ennoble the thoughts of their hearts.

H. H. V.

## **Pittsburgh Solicitor Respects Religious Liberty**

SOME TIME AGO the press carried dispatches from Boston telling of a conflict between Father Leonard J. Feeney and his ecclesiastical superiors. *The Pilot*, official organ of the Boston Roman Catholic archdiocese, eventually dealt with the matter by publishing a ruling by the Sacred Congregation of the Holy Office, denying that the Roman Catholic Church sanctioned the doctrine that Father Feeney was promulgating.

The conflict between Father Feeney and his Church is none of LIBERTY's business, but a recent dispatch from Pittsburgh will be of interest to our readers. It reported that "fines of \$25 each for peddling books without a city permit were returned to . . . four young men, all of Father Feeney's St. Benedict Center in Cambridge, Massachusetts. In ruling that the fines should be returned, Frank J. McKenna, City Solicitor, said the young men were right in insisting that members of a religious organization did not need a permit to solicit funds for religious purposes. 'I certainly don't agree with their interpretation of Catholic doctrine,' Mr. McKenna said, 'but they do have certain civil rights that must be respected.'"

Mr. McKenna is to be commended. In various parts of the United States city governments are found that have arrogated to themselves the right to absolutely prohibit the sale of religious as well as secular publications by what they are pleased to call peddlers. In other cities and towns where the ban is not absolute, any who want to engage in the promulgation of what they believe to be the gospel through the sale of literature must secure permits from the municipal authorities. In some cases it is necessary to be fingerprinted like an ordinary felon. Sometimes the fee demanded is absolutely prohibitive.

The decision of the United States Supreme Court in the *Breard* case has increased the arrogance of many officials. We commend Mr. McKenna for his action and believe that it is in complete harmony with the constitutional provision for freedom of the press.

H. H. V.

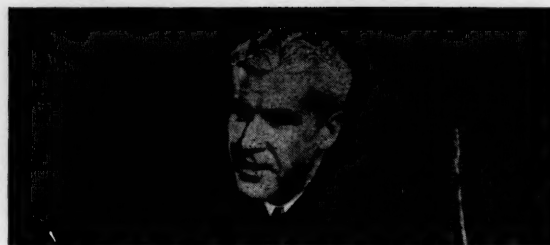
## Juror's Conscientious Convictions Honored by Judge

THE SYRACUSE, New York, *Post-Standard*, in its issues of September 20 and 21, 1952, reported that one of the jurors in a case tried in the U.S. District Court in that city was a Seventh-day Adventist woman. When the work of the jury was not completed as early in the week as she had thought it would be, the juror, Mrs. Ruth C. Aldridge, informed Judge James T. Foley that she could not take part in the deliberations of the jury between sundown Friday night and sundown Saturday night because she observed this period as the Sabbath.

Judge Foley then directed that the jurors be taken to a hotel and locked up for twenty-four hours in what the newspaper called "semi-isolation," with instructions not to discuss the case with each other or anyone else. It is easy to understand that this occurrence "created a furor among trial attorneys and observers."

When the jury returned to the court twenty-four hours later, Mrs. Aldridge apologized for the inconvenience she had caused. The judge promptly assured her that "no one will hold it against you," and added, "you have the right to practice your religion."

As long as our courts manifest such a regard for the rights of minorities, as long as we have jurists of such sensitive appreciation of conscientious convictions as Judge Foley has shown, our land will retain her glory. Our hats are off to a man who refused to let personal inconvenience blind him to the protection our Constitution offers to those who conscientiously hold unpopular ideas.



A. Devaney

We think that no one has a right to refuse jury duty. We believe that a little forethought by Mrs. Aldridge would probably have led her to explain her beliefs to the judge when she was called to jury duty. She might have been entirely excused or assigned to service where difficulty would not have come up because of her religious practice.

What occurred must have been irritating. Her fellow jurors could have easily thought that she was inconsiderate of them. The judge, who lived in another city, might have resented having to stay away from his home another day. However, the whole incident is brightened by the action of Judge Foley. Probably he had not before met such a problem. His immediate reaction reveals not only a mind fully familiar with the intent of the basic law of our land, but better yet a heart unspoiled by the power that is lodged in his office.

What occurred in Syracuse in Judge Foley's court confirms a feeling we have long held, that our courts, divorced from politics, offer the best hope for protection of our citizens and the preservation of the constitutional liberty of everyone in America.

H. H. V.

## NEWS and COMMENT

### Blue Law Test Avoided in New Hampshire

MANCHESTER, N.H.—An anticipated test of New Hampshire's old Sunday blue laws did not materialize here when local authorities quashed the case against a war veteran arrested for building a new home for his wife and two children on Sunday.

Judge Alfred J. Chretien ordered the charge against Ernest Clang dismissed after police officials entered a motion of nolle prosequere.

Widespread interest among persons engaged in building their own homes was aroused by the veteran's arraignment. In court, it was charged that Mr. Clang "upon the first day of the week, commonly called the Lord's Day, did perform work not consid-

ered work of necessity and mercy, to wit did engage in work of erecting a dwelling home to the disturbance of others."

### Prayer in Public Schools

ALBANY, N.Y.—Only 300 of the state's 3,000 school districts have taken steps to comply with a 10-month-old recommendation of the New York State Board of Regents for recitation of a daily prayer, the State Education Department estimates.

Support for the prayer has been slow, a Department spokesman said, but is growing steadily.

The prayer suggested by the Regents is: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country."

## State Court of Appeals Holds Parochial School Farm Tax Exempt

ALBANY, JULY 15—(AP)—The Court of Appeals unanimously held today that the farm of Union Springs Academy in Cayuga County operated by the Seventh Day Adventists was exempt from town and village property taxes.

There was no opinion.

The New York Conference Association of Seventh Day Adventists, which operates a school for boys and girls of high school age, had challenged the right of assessors in the town of Springport and the village of Union Springs to tax the school's farm.

The religious group contended the property was used "exclusively by a religious corporation for religious and educational purposes."

"The farm is used to provide food for the academy table and for the training of its students in agriculture," the group's lawyer, Raymond M. Bush of Syracuse, argued before the state's highest court.

## Non-Public Schools Report Record Enrollment

WASHINGTON, D.C.—A new all-time high of 3,952,000 students will be enrolled in church and other private primary and secondary schools this fall, it was predicted by the Federal Security Agency here. This compares with 3,683,000 students enrolled in September, 1951.

The figures represent a general increase of six per cent over 1951 enrollment, but non-public elementary schools are expected to show a jump of eight per cent over last year.

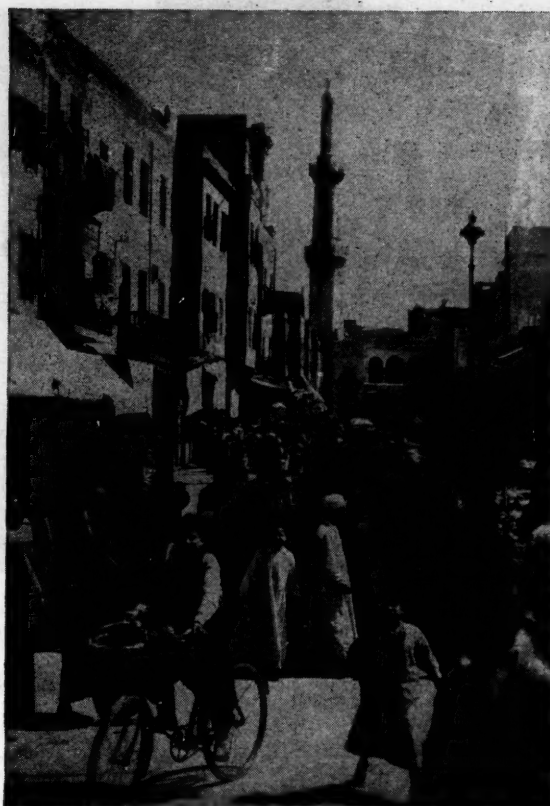
It was indicated that church and other non-public schools could expect an increase in primary and secondary school enrollment of 168,000 students in the fall of 1953; 144,000 by that time in 1954; and another increase of 84,000 students by September, 1955.

## General Mohamed Negib Declares for Religious Freedom in Egypt

CAIRO.—General Mohamed Negib, who led the bloodless coup which deposed King Farouk, has assured the Coptic Orthodox and Coptic Catholic Patriarchs that the army movement has no hidden religious motives. He said that it was purely a national movement sponsored by both Moslem and Christian army officers.

Paying an official visit to the Coptic Orthodox Patriarchate here, General Negib told Patriarch Youssab II, head of Egypt's two million Copts:

FIRST QUARTER



Publishers Photo Service

The nation of Egypt, whose history reaches into the distant past, is undergoing many changes in its political life.

"We aim at the higher interests of the nation alone. I ask you not to believe rumor mongers who are trying to divide the different faiths within the nation."

General Negib paid a similar visit to Coptic Catholic Patriarch Marco II.

The general's assurances came following widespread fears among Egyptian Christians that the army movement was inspired by the fanatical Moslem brotherhood and aimed at establishing an Islamic theocracy in Egypt.

Meanwhile, in an appeal to officers and soldiers of the Egyptian Army, General Negib said, "Stand fast to the precepts of religion and make no distinction between Christian and Moslem."

## Italy "Offended" by Religious Freedom

ROME—*Il Quotidiano*, organ of Italian Catholic Action, attacked Protestant proselytizing, particularly by the Churches of Christ, as "an offense" to Italy.

In a front-page article, the newspaper declared that "the great majority of Italian Catholic citizens, while admitting that religious minorities can profess



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their faith, cannot consent to proselytism, which offends them."

The paper said the activities of the Churches of Christ would be understandable in pagan countries but in Italy they meant only a further division of Christianity.

"A State does not offend freedom by protecting the religion of virtually all its citizens, together with the country's moral unity," it declared.

## Parochial Schools Protest Water Charge

**MOBILE, ALA.**—The superintendent of Mobile parochial schools has protested an announced plan of the city to charge the schools for water.

Msgr. Leo M. Byrnes accused the city of reaching out for an income that would not be able to stave off bankruptcy but might have "a throttling effect" on the operation of some schools and charitable agencies.

"If necessary, I shall feel it duty bound to call for such demonstration of public sentiment as is needful to forestall the execution of this plan," he wrote the city commission.

Earlier, Bishop Thomas J. Toolen, of the Mobile Diocese, said there was no justification for the elimination of free water.

The city commission's explanation of the new policy was that a charge had to be put on all water consumed in the city in order to issue revenue bonds.

## Catholics Seek Use of Public School Athletic Field

**BATAVIA, N.Y.**—Advice of a state official is being sought by the Reverend Edward J. Ferger, rector of St. Mary's Roman Catholic church here, concerning possible use of the public school athletic field by students of Notre Dame High School.

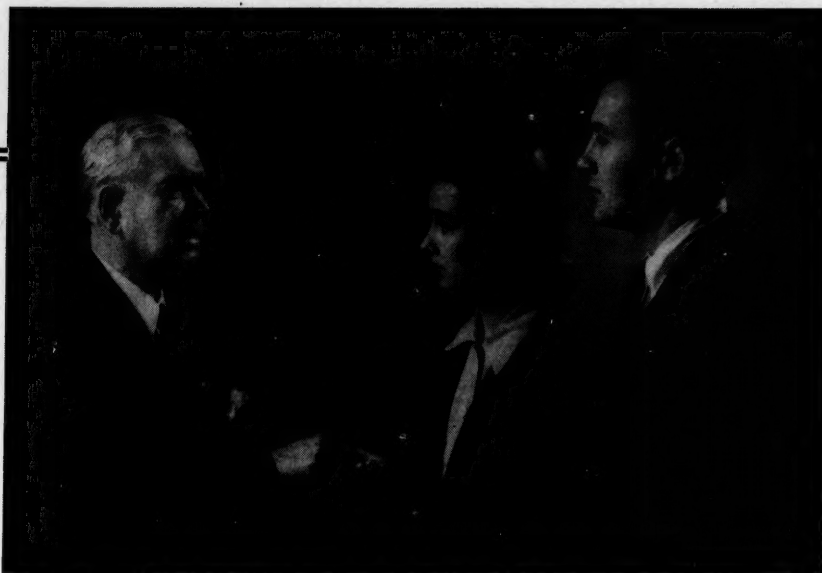
Father Ferger said he will decide what action should be taken to obtain use of the field for the Catholic students after he has received the advice from the official, whose name he refused to disclose.

Catholic students have not used the field since it was donated to the city of Batavia by Mr. and Mrs. Ernest L. Woodward, of Le Roy, N.Y. The field—known as Woodward Field—has been under the control of the Batavia Board of Education since its inception in 1947.

Father Ferger claims that the terms of the gift were that the field was to be used by all groups, even though it was to be controlled by the education board.

The board's legal advisers have stated that the field could not be used by Catholic pupils.

Father Ferger has threatened to unite Catholics in voting down any future appropriations for public schools in Batavia as a protest against the denial of the field to Catholics.



*Ewing Galloway*

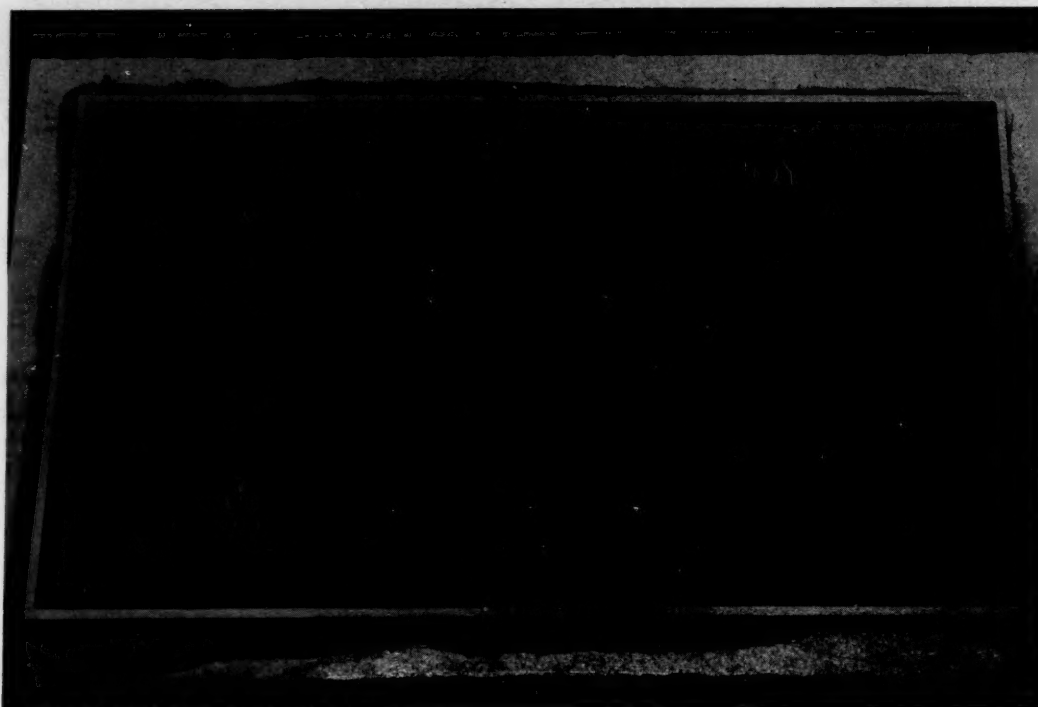
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*Photo by Robert K. Graul, Alton Evening Telegraph*

This plaque was recently unveiled in Alton, Ill., to the memory of Elijah Parish Lovejoy

## The First Martyr to **FREEDOM of the PRESS** in America

**W**HEN Governor Adlai E. Stevenson unveiled this plaque at Alton, Illinois, in commemoration of the 150th anniversary of Elijah Parish Lovejoy, this country's first martyr to freedom of the press, he said, "The cause of truth is served fully only by those who couple a sense of duty with the exercise of their right to free speech," and quoted Lovejoy thus: "I am impelled to the course I have taken because I fear God. As I shall answer to my God in the great day, I dare not abandon my sentiments or cease in all proper ways to propagate them. . . . I can die at my post but I cannot desert it."

Lovejoy, a strong abolitionist, had used his pa-

per as an organ to promote sentiment in favor of freeing the slaves. To him that was the great issue, but it has long since been resolved by our Civil War. Lovejoy is remembered today because he was willing to defend his right to print what he pleased at the cost of his life.

Commenting upon Lovejoy's statement, Governor Stevenson said he "knew of many vigorous and powerful statements of the right to be permitted to speak freely but none 'more moving,'" and reminded his listeners that free speech includes freedom "not just to denounce heretics but to pronounce heresies, the freedom to say lawful but unpopular things." H. H. V.

